



## **Authority**

Section: 1.100  
Effective Date: May 25, 2010  
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## **Purpose**

The purpose of this Written Directive is to explain the background, operation, conduct, responsibility and authority of the University of Baltimore Police Department (UBPD).

## **Policy**

It is the policy of the UBPD to develop and implement operational policies, procedures, rules and regulations that comply with Maryland law and the policies of the University of Maryland System.

### **1.100 Authority**

#### **1.102 General Police Authority Established**

- A. In 1976, legislation enacted by the Maryland General Assembly and signed into law by the Governor of the State, created the University of Baltimore Police Department. Prior to that, members of the department possessing police authority derived that authority from Maryland Special Police Commissions issued by the Executive Department of the State. In 1988, the University System of Maryland was established and the University of Baltimore identified as a "constituent institution" through section 12-101 of the Education Section of the Annotated Code of Maryland. As a result, all sworn personnel of the University of Baltimore Police Department derived statutory authority through the University of Maryland.
- B. System, Criminal Proceedings 2-101 and 2-102, and Public Safety's Title 3 Sec. 1 enumerates the University of Baltimore's Police Department as consisting of police officers who, in their official capacities, have the authority to make arrests and enforce the general criminal laws of the state.
- C. Under Courts & Judicial Proceedings §3-814 & §3-8A-15, officers are authorized to take juveniles into custody under certain circumstances.
- D. Officers are authorized to direct and/or regulate traffic and to enforce provisions of the Maryland Vehicle Law consistent with TR 26-201, *et. Seq.* and agency directives.
- E. Officers are authorized through §13-709 - Estates & Trusts to transport an adult to an appropriate medical facility when it appears probable that an he/she will suffer immediate and serious physical injury or death if not immediately placed in a health care facility.
- F. Officers are issued and carry firearms consistent with law and agency directives upon meeting the requirements of COMAR 12.04.01 and 12.04.02 as promulgated by MPTSC.

#### **1.104 Oath of Office**

- A. Police officers hired by the University of Baltimore's Police Department are sworn by the clerk of the court and their powers of arrest/authority as a police officer are suspended. On completion of the mandated training (or on appointment as a lateral transfer officer) being certified by MPTSC, the officer is administered the University System of Maryland's approved oath of office by the Captain or his designee in the event of his/her absence. The Captain receives the oath of office by the university president or his/her designate.
- B. Officers will abide by the oath of office to:

1. Bear true faith and allegiance to the United States of America and to the State of Maryland;
  2. Uphold and defend the United States and the State of Maryland's Constitutions.
  3. Serve the University of Baltimore, protect life and property, and enforce the law; and
  4. Obey orders of the Governor, the Board of Regents, and superior officers according to the rules and regulations of the agency.
- C. The approved UM school system's oath of office is signed by the officer and Captain The original is presented to the officer and a copy maintained in the officers' personnel file.
- D. The University System of Maryland's approved oath of office sworn to by the officer is:

*I do solemnly declare and affirm that I will bear true faith and allegiance to the United States of America and to the State of Maryland; that I will serve honestly and faithfully to uphold and defend the constitution of the United States and Constitution of Maryland; that I will enforce the laws of the state of Maryland and that I will obey the orders of the Governor, Board of Regents and the officers appointed over me according to the rules and regulations of the University of Baltimore Police Department. I take this obligation freely, without mental reservations of purpose of evasion and I will execute these responsibilities to the best of my ability.*

### **1.106 Limitations on Authority**

Directives related to limitations of authority are not intended to be exhaustive on the subject matter. Where laws, either included or excluded in these directives, are more permissive or restrictive, the laws are controlling.

#### **1.106.02 Jurisdictional Limitations**

- A. ED 13-601 and CP 2-102 contain controlling language that describes when Officers may exercise police powers subject to jurisdictional permissions and limitations. The University of Baltimore's Police Department has the primary agency responsibility for policing property owned, operated, leased by, or under the control of the University.
- B. An official map detailing jurisdictional boundaries is maintained by the department and resides on the R drive
- C. Copies of concurrent jurisdictional agreements are available to all University of Baltimore police officers. See: on R drive
- D. Concurrent Jurisdiction;

#### **Extra-jurisdictional Authority Implementation and Extra-jurisdictional Authority Operations.**

#### **1.106.04 Arrest Restrictions**

- A. CP 2-201, *ET. SEQ.*, contains permissive and restrictive language on the laws of arrest by which all agency officers must abide.
- B. See also **2.600 Arrest Procedures** and Maryland Vehicle Laws, Sections 11-147 and 26-103 for additional police authority and authorization to direct traffic, issue citations and make arrests.

#### **1.106.06 Emergency Protective Services (Transportation of Adults to Medical Facilities)**

ET 13-709 contains controlling language that describes when Officers may take adults into custody and transport them to medical facilities.

#### **1.106.08 Emergency Psychiatric Evaluations**

- A. HG 10-622 contains controlling language that describes when Officers may take persons into custody and petition for emergency psychiatric evaluations.
- B. See also **2.422 Emergency Psychiatric Evaluations.**

#### **1.106.10 Warrantless Arrests of Fugitives**

- A. CP 9-109 AND CP 9-114 contain controlling language that describes when officers may arrest individuals without warrants upon reasonable information that the accused are wanted for crimes punishable by death or imprisonment for more than one year in other states.

**1.106.12 Retake Warrants**

- A. CS 6-107 contains controlling language that describes when officers may arrest or retake alleged parole violators.
- B. CS 3-214 contains controlling language that describes when officers may arrest escapees on the strength of retake warrants issued by administrators, or their designees, of local or regional detention facilities.

**1.106.14 Intrastate Fresh Pursuit Arrests**

- A. CP 2-301 AND CR 5-810 contains controlling language that describes when officers may engage in the intrastate fresh pursuit of persons and exercise authority. Also see the directive on **Vehicle Pursuits**.

**1.106.16 Authority to Maintain Custody**

- A. CP 2-106 contains controlling language that describes when Officers may transport defendants to District Court Commissioners beyond the boundaries of the agency's jurisdiction and have the same power to maintain custody of prisoners as if they were within the agency's jurisdiction.

**1.106.18 Authority to Issue Traffic Citations**

- A. TR 26-201 contains controlling language that describes when officers may charge and issue citations to persons when probable cause exists that persons have committed, or are committing, specified violations.
- B. All officers are provided updated copies of the Maryland Vehicle Law and related statutes through the yearly issuance of "The Maryland Vehicle Law" as provided through the MVA.

**1.106.20 Authority to Arrest for Traffic Violations**

- A. TR 26-202 contains controlling language that describes the violations of the Maryland Vehicle Law, including any rules or regulations adopted under it, for which persons may be arrested without warrants.

**1.106.22 Authority to Disregard Traffic Laws in Certain Situations**

- A. TR 21-106 contains controlling language that describes when officers who are driving emergency vehicles may disregard specific traffic related laws.

**1.106.24 Criminal & Civil Citations**

- A. Maryland Rule 4-201 and CP 4-101, authorize the issuance of citations in lieu of arrest for applicable violations.
- B. See **2.416 Criminal/Civil Citations** for specific directives relating to enforcement actions and procedures relating to issuing criminal and civil citations.

**1.106.26 Juveniles**

- A. CJ 3-814 and 3-8A-15 - contains controlling language that describes when officers may take juveniles into custody.

**1.106.28 Authority to Serve Arrest Warrants**

- A. Maryland Rule 4-212 authorizes only peace officers and sheriffs to serve arrest warrants.

**1.106.30 Authority to Execute Search Warrants**

- A. CP 1-203 and Maryland Rule 4-601 contain controlling language that describes when officers are authorized to serve/execute search warrants.

**1.106.32 Authority to Arrest Armed Forces Deserters**

- A. The Uniform Code of Military Justice as contained in 10 USC Sec. 808 authorizes civil law enforcement personnel to summarily apprehend deserters from the armed forces and deliver them into the custody of those forces.

### **1.108 Constitutional Protections & Rights**

- A. Although the constitutions and statutory laws of the United States and the State of Maryland establish and declare certain protections and rights for suspects and detainees, the courts provide ever evolving guidance, interpretation, and definition of those protections and rights.

#### **1.108.02 Interviews & Interrogations**

- A. Officers must be mindful when questioning those in custody or those which in any other way are being deprived of their freedom of action, in any significant way, and the questioning moves from “general fact finding” to “accusatory”, the person to be questioned must be informed of the Miranda Warning concerning the 5<sup>th</sup> and the 6<sup>th</sup> Amendments of the United States Constitution.

The crime, whether a felony or misdemeanor, has no bearing on whether Miranda Warnings are to be administered. It is custody and the asking of accusatory questions which trigger this requirement.

Officers are to read directly from issued *Miranda Warning* cards to ensure they cover all rights regarding self-incrimination and the right to an attorney and note this in the officer’s report. If time and circumstances permit, officers should use the agency’s **Explanation of Miranda Rights** form.

- B. It is not necessary in all cases for officers to immediately advise suspects or detainees of their Miranda rights.
- 1. Apprehending officers need not give Miranda Warnings when the person admits guilt or expresses knowledge. These spontaneous res gesti uttering’s are admissible in court. The court recognizes that the statement was made in the “heat of the situation” regardless as to the truthfulness of the statement.**
  - 2. Officers are to advise an investigator assigned to accept a person in custody whether or not the person was informed of the Miranda Warnings.**
  - 3. An Investigator receiving a suspect for interrogations is responsible for ensuring that Miranda Warnings are given.**
- C. Juveniles have the same constitutional rights regarding statements and confessions as adult; As such, they too must be informed of these rights when in custody and questions move from general fact finding to the accusatory.
- D. It is the State’s responsibility to prove in court that suspects or detainees were properly and fully advised of their constitutional Miranda Warnings, that they understood these rights, and were afforded opportunities to exercise them.
- E. Suspects and detainees waiving their rights must do so knowingly, intelligently, and voluntarily.

#### **1.108.04 Access to Counsel**

- A. At Central Booking, or while in the custody of Corrections, suspects and detainees will be allowed to meet with attorneys consistent with constitutional, processing, and detainee security requirements.
- B. Attorneys and their suspect or detainee clients should also be provided privacy in order to confer.

### **1.110 Warrantless Search & Seizure**

- A. As a general rule, searches must be supported by valid warrants, unless certain exceptions are met. The major exceptions are:
1. Incident to a lawful arrest;
  2. Consent;
  3. Stop and frisk situations;
  4. Vehicle inventories under the vehicle exception

5. In open fields or in plain view at crime scenes;
  6. Exigent circumstances wherein public safety is endangered; and/or
  7. Other situations authorized by law or state or federal constitutional provisions.
- B. Officers are encouraged to conduct warrantless searches and seizures in incidents wherein applicable conditions exist, such as incident to a lawful arrest. However, whenever necessary and appropriate according to constitutional provisions and laws, officers will apply for search warrants prior to conducting searches in order to legitimize searches and to detect and correct any possible flaws in probable cause and other aspects of cases.

#### **1.110.02 Consent Searches**

- A. Officers may conduct searches of persons or property without warrants or probable cause if officers have obtained prior consent of persons who will be affected by searches, or of persons who have the right and authority to act on behalf of persons affected by searches.
- B. Prior to searching persons or property, officers must ask for consent and must reasonably believe that consent was given clearly, voluntarily, and of free will.
- C. Consenting persons must have authority over, or proprietary interest in, premises or property to be searched.
- D. Silence as responses to consent search requests will not considered to be affirmative answers.
- E. Officers will not make any threats or inducements to secure consent searches.
- F. Whenever possible and practical, officers should attempt to have persons granting consent searches execute "Consent Search & Seizure Advisory sections of Search Reports consistent with **1.1005 Search Reports**.
- G. Consent searches are considered by the courts to be legitimate, but not the best method for legitimizing searches.

#### **1.110.04 Stop & Frisk**

- A. Consistent with *Terry v. Ohio*, 392 U.S., 1 (1968), the court held that when police officers observe unusual conduct which leads them reasonably to conclude in light of their experience that criminal activity may be afoot, officers may:
  1. Briefly stop suspicious persons;
  2. Make reasonable inquiries aimed at confirming or dispelling their suspicions; and
  3. When justified by believing that the individuals whose suspicious activities they are investigating at close range are armed and presently dangerous to officers or others, conduct pat-down searches to determine if the persons are in fact carrying weapons.
- B. Stops and frisks usually involve ongoing criminal conduct, but officers are permitted to stop and, when appropriate, frisk persons suspected of being involved in crimes.
  1. The purpose of frisks or limited searches is not to discover evidence of crimes, but to allow officers to pursue their investigations without fear of violence.
  2. Stops and frisks are justified if reasonable suspicion is based on specific, objective facts and logical conclusions from which officers' experiences enable them to draw.
  3. Officers may use information obtained from sources other than their own personal observations on which to initiate stops and frisks.
  4. Frisks are no more than limited "patting" of the outer clothing in attempt to discover weapons.
  5. Motorists or pedestrians may be stopped and frisked when all other limiting criteria are met. If officers reasonably suspect that motorists are dangerous and may be able to gain control of weapons in vehicles, officers may conduct brief searches of vehicles limited to areas where weapons might be placed or hidden.
  6. Items that are not reasonably believed to be weapons cannot be retrieved from persons' clothing during stops and frisks. (The exception is the "**Plain Touch Doctrine**" noted in this directive below.)
  7. Stops and frisks, if possible, should be conducted in well lighted areas and with other officers present in order to afford maximum protection unless exigency dictates otherwise.

8. Officers are to stop and frisk individuals consistent with Criminal Law, §4-206 (handgun permit legislation) and other directives contained in this **Stop & Frisk** directive or the **Investigative Detentions / Field Interviews** directive.
- C. Officers who stop and frisk individuals will:
  1. Do so consistent with statutes, case law, training, and directives; and
  2. Complete a miscellaneous incident report detailing the circumstances, reasons, and results of all stops and frisks situations.
  3. Complete a MSP 97 Firearm Report, items 1 - 16, except item 10, and submit same to the shift supervisor before the end of their tours of duty. MI and MSP 97 reports must be completed regardless of whether or not weapons are discovered and after the shift supervisor's review, the completed form is to be forwarded to the Operations Captain.
  4. After review by the Operation Captain, the form is forwarded the Administrative Office for processing.
  5. On receipt of copies of the Miscellaneous Incident and MSP 97 reports, the Business Specialist will mail them to the Superintendent of the Maryland State Police.
- D. The Administrative Office is responsible for:
  1. Printing and ensuring sufficient copies of the MSP 97s are available for campus police officers.
  2. A PDF copy will be also be retained on the R drive in the "Departmental Form" file residing there.
- E. See **Stop Procedures** for additional information on this exception to the warrant rule.

#### **1.110.06 "Plain Touch" Doctrine**

- A. The Supreme Court in *Minnesota v. Timothy Dickerson*, 113 U.S. 2130 (1993) articulated a "plain touch" exception to the search warrant requirement of the Fourth Amendment whereby officers may lawfully seize any drugs or contraband identified during *Terry* frisks or limited pat-downs of suspects if the articles are plainly felt and identified by officers acting in good faith.
- B. Should an officer, while lawfully patting down outer garments, feel objects whose contour and/or mass makes its identity immediately apparent, sufficient probable cause to arrest and search, incident to that lawful arrest. The rationale of the court was this warrantless seizure would be justified by the same practical considerations inherent in the plain view context and will not be suppressed.

#### **1.110.08 Movable Vehicle Exceptions**

- A. Consistent with *Michigan v. Long*, 463 U.S. 1032 (1983), officers may make warrantless searches of vehicles which were in motion, or at least mobile when seized, and which the officers have probable cause to believe contains contraband or fruits, instrumentalities, or evidence of crimes.
- B. Vehicles may be searched in their entirety if there is probable cause to believe vehicles contain contraband, fruits, or instrumentalities of crimes even though there is no danger that vehicles or evidence may be lost.
- C. Officers with probable cause to search cars may inspect passengers' belongings found in the cars that are capable of concealing the objects of searches.
- D. Officers should apply for search warrants in order to protect against court challenges if they doubt the sufficiency of their probable cause to search vehicles and they are certain custody over vehicles can be retained until warrants are issued.

- E. Warrants will be applied for to search vehicles after they are no longer mobile, or they have been impounded.
- F. Searches of vehicles based on probable cause may extend to any part of vehicles, including closed containers found inside in which objects of searches can be concealed.
- G. If officers' suspicions are focused on particular containers rather than on whole vehicles, officers may seize only those containers and, absent exigent circumstances, must obtain search warrants before searching.
- H. In April of 2009 the Supreme Court of the United States ruled on the Arizona v. Gant which held police may search a vehicle incident to a recent occupant's arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest. When these justifications are absent, a search of an arrestee's vehicle will be unreasonable unless police obtain a warrant or show that another exception to the warrant requirement applies.

#### **1.110.10 Searches at Crime Scenes**

- A. Homes or premises where lawful arrests have been made may be subjected to a "walk through sweep" for other persons if the officer has a reasonable articulable belief there are other persons on premises who pose danger to themselves or others on scene.
- B. Of note, the sweep will be limited to looking into areas/places a person could reasonably secrete themselves. Officers may also seize contraband and illegal items believed to be abandoned.
- C. In accordance with the "open field" doctrine, officers may enter and search unoccupied or undeveloped areas that lie outside the curtilage of dwellings.

#### **1.110.12 Exigent Circumstances & Emergencies**

- A. Officers may conduct warrantless searches, whether personal belongings, vehicles, or buildings, anytime it is necessary to save lives or prevent injuries.
- B. Officer may conduct warrantless searches for evidence if they have probable cause to believe that evidence is in the places or things to be searched and may be destroyed before warrants could be obtained.
- C. In all other situation where exigency does not exist, officers are to apply for search warrants.

#### **1.110.14 Inventory Searches**

- A. Consistent with the section dealing with an **Impounding Officer's Responsibilities**, officers will inventory each vehicle for personal items of value and safely store the arrestee's property.
- B. Closed containers and other property may be opened and inventoried for the sole purpose of the inventory and not for "evidence".
- C. All items removed from the vehicle are to be stored in the property area, conspicuously marked as "personal property". Additionally, a list of items removed are to be entered into the vehicle report.

#### **1.110.16 Strip & Body Cavity Searches**

Under no circumstances will University of Baltimore Police or Security Officers conduct or assist in any Strip and/or body cavity searches. Descriptions of and rational for these searches are located in the Arrest Procedures:

**2.604.06 Strip Searches**, and **2.604.08 Body cavity Searches** respectively.

#### **1.110.18 Other Search Situations**

- A. TR 16-205.1 contains controlling language that describes when Officers may order compulsory chemical testing of drivers involved in motor vehicle accidents which result in death or life threatening injuries to other persons.
- B. In accordance with the "Schmerber Doctrine," officers may request the Office of the States Attorney to subpoena defendants' hospital records, especially those relating to blood alcohol content, if drivers had refused to submit to police based alcohol testing, but from whom blood was drawn by medical personnel for medical reasons.