

MODEL POLICIES FOR LAW ENFORCEMENT IN MARYLAND



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All previous criminal law citation references in this policy manual to the former *Article 27* of the *Annotated Code of Maryland* have been converted to reflect their current citation listings under the new *Criminal Law* and *Criminal Procedure Articles* of the *Annotated Code*.

ADVISORY BOARD

The individuals listed below constitute the original panel that was responsible for the development and distribution of the *Model Policies for Law Enforcement in Maryland*. As the manual was expanded to include policies addressing emerging law enforcement issues, many additional individuals contributed their knowledge and expertise. Thanks go out to all those who have participated in the continuing review and development of the manual.

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BACKGROUND

The development of Model Policies for Law Enforcement in Maryland was examined by the Police Training Commission in the early 1990's as it considered the long term goals of the Commission. While the Commission believed that model policies could limit a police agency's exposure to liability and unsafe working conditions, it did not endorse any specific policies.

It was expected that these model policies would be distributed to police agencies throughout Maryland and that agencies with existing policies could compare their own policy to the model. Where the model policy was more comprehensive or suitable, it could be adopted or modified to meet the needs of the particular agency. For agencies without written policy, the models could be used to develop comprehensive policies in those agencies.

In 1998, the Maryland Police and Correctional Training Commissions submitted a Byrne Memorial Fund grant application for the "Model Policies for Maryland Law Enforcement" project. The Maryland Law Enforcement Officers, Inc. and the Local Government Insurance Trust provided the required matched funds. Using the grant funds, the Commissions entered into a contract with the University of Maryland Center for Applied Policy Studies to research and compose the model policy statements.

As an essential part of this project, an Advisory Board was convened and included representation from the Maryland Law Enforcement Officers, Inc., the Local Government Insurance Trust, The Maryland Chiefs of Police Association, The Maryland Sheriffs Association, and the Chesapeake Regional Law Enforcement Accreditation Alliance.

At the first meeting of this Advisory Board, critical areas of interest were identified for review of existing policies. This review would allow the model to capture the benefits of existing policy while not being so unique that it would detract from the purpose of providing a general model of law enforcement policy in the State of Maryland.

The review of policy began by soliciting information about existing policy from police agencies throughout the state. An enormous response from these agencies provided us a large number of policy manuals. Additionally, the solicitation revealed that many agencies within the state were operating without the benefit of written policy manuals. Also, many who indicated that their agency had existing written policy stipulated that their manuals were either outdated or under a process of revision.

This information provided further support that the model policies would provide immediate assistance to many, if not all, police agencies in the state. Furthermore, every agency that responded to the solicitation requested to receive a copy of the finished model policy product. The model policies include, for the most part, the most general consistencies of the existing policies of the surveyed agencies. Any inconsistencies were discussed among the Advisory Board, and the most appropriate language was included in the draft. The policy drafts were also reviewed by law professor Alvin J. T. Zumbun. His comments further identified possible areas of liability exposure and have been incorporated into the drafts.

The draft copy of the Model Policies for Law Enforcement in Maryland was then presented at the annual conferences of the Maryland Chiefs of Police Association and the Maryland Sheriffs Association. This presentation allowed us another opportunity to solicit comments and questions about the Model Policies. Those comments identified many legitimate practicality concerns and are now incorporated into this final version.

The Center for Applied Policy Studies completed its compilation of draft policy statements and forwarded them to the Commissions. After additional editing for format, copies of the final draft were reviewed and amended one final time by the Advisory Board. As a final step of the project, a copy of *The Model Policies for Law Enforcement in Maryland* was distributed to every law enforcement agency in the State.

USE OF FORCE

I. Purpose:

The purpose of this policy is to establish guidelines for the proper use of force and to determine when the use of deadly force is the appropriate action.

II. Policy:

A. It is the policy of _____ that officers use the least amount of force that is reasonably necessary to control an incident, to effect an arrest, or to protect themselves or others from personal harm or death. The degree of force used by the officer should be progressive along a continuum that spans from verbal commands to deadly force.

B. It is the policy of _____ that the use of deadly force is authorized under the following circumstances:

1. In defense of self or another when the officer has reasonable cause to perceive an immediate threat of death or serious physical injury.
2. To prevent the escape of a suspect of a violent felony whom the officer has probable cause to believe will pose a significant threat of death or serious physical harm to other officers or the public.

The use of deadly force in apprehending violent felony suspects should only be used after all other reasonable means of capture have been exhausted; however, in some situations, it may not be prudent for an officer to impose each distinct level of force. The reasonableness of an officer's use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

Commentary: *In many of the policy manuals which were available for review, an additional issue is contained but was not included in this model policy draft. This is the issue of officers firing shots from, or at, moving vehicles. After much discussion by the Advisory Board, it was decided that this type of action should be limited to life threatening circumstances where innocent citizens are not endangered. Additionally, it was decided that the conditions presented in Section II. B should be completely fulfilled. Individual Chiefs and Sheriffs may want to consider this issue when drafting their own Use of Force policies.*

C. The policy of _____ prohibits the use of firearms to fire warning shots.

D. It is the policy of _____ to train and qualify sworn personnel in the use of any firearm and other tools used to apply force (e.g., police batons, mace or pepper spray, stun guns, etc.).

III. Guiding Principles:

A. This policy directs officers to report to their immediate supervisor:

1. Any use of deadly or non-deadly force by an officer, including reports by another member of the agency who witnessed the force used by an officer.
2. Any application of a tool used to apply force.
3. Any discharge of a firearm by an officer while on-duty or acting as an officer of the law while officially off-duty. *Note: Reports are not required for the discharge of firearms during training or authorized practice.*
4. Any use of force where the suspect claims to be injured

B. This policy suggests that every use of force and discharge of firearm be reviewed to determine if an unwarranted use of force was applied.

C. When circumstances allow, officers should communicate to the suspect their identity, purpose and intention of using force.

IV. Definitions:

A. **Deadly force:** The use of force which is intended to, or likely to cause death or serious physical injury. For the purposes of this policy, deadly force will also include the intentional striking with any vehicle.

B. **Non-Deadly Force:** The use of force which is applied to effect an arrest or protect the officer or others from attack, physical resistance, harm, or death but is not intended or expected to cause death.

C. **Probable Cause:** A conclusion based upon information known to the officer at the time which leads to the belief that a violent crime has been, is being, or is about to be, committed by a particular individual.

D. **Serious Physical Injury:** Bodily injury which causes death, creates a substantial risk of death, serious or permanent disfigurement, or results in the long term or permanent impairment of an organ or limb.

V. Selected Relevant Cases:

A. *Tennessee v. Garner* 471 U.S. 1 (1985)

B. *Grandstaff v. City of Borger* 480 U.S. 916 (1987)

- D. *Graham v. Connor* 490 U.S. 386, 109 S.Ct. 1865 (1989)
- E. See American Law Institute's Model Code of Pre-Arrest Procedure, Section 120.7 (Official Draft 1975). Still Considered Exemplary.
- E. *Ryder v. City of Topeka*, 814 F.2d 1412 (10th Circuit 1987)
- F. *Ford v. Childers*, 650 F. Supp. 110 (C.D. Ill. 1986)
- G. *Garcia v. Wyckoff*, 1615 F. Supp. 217 (D. Colo. 1985)
- H. *Springfield v. Kibbe*, 480 U.S. 257 (1987)

EMERGENCY VEHICLE PURSUIT OPERATION

I. Purpose:

The purpose of this policy is to establish guidelines for the operator of an emergency vehicle driving in excess of posted speed limits and counter to traffic control devices in an effort to apprehend a vehicle operator who is attempting to avoid capture. When these guidelines are applied by officers in the field, their decision to engage in, continue, or terminate a vehicular pursuit will be less arbitrary.

II. Policy:

- A. It is the policy of _____ to allow officers to engage in vehicular pursuits of fleeing suspects only when the potential harm associated with pursuits is less than the potential harm the suspect may cause if not immediately apprehended. Before deciding to initiate pursuit, officers must consider:
1. The ability to apprehend the suspect without vehicular pursuit (i.e., by knowing the suspect's identity, by using police helicopters communications or other equipment, by the strategic positioning of other area officers, etc.);
 2. The nature of the offense;
 3. The driving ability of the officer;
 4. Whether marked versus unmarked vehicles;
 5. The performance characteristics of the police vehicle;
 6. The characteristics of the roadway;
 7. The weather conditions;
 8. The location and neighborhoods, and;
 9. The density of vehicle and pedestrian traffic.
- B. It is the policy of _____ that officers will not be subject to disciplinary action when they decide not to engage in a vehicle pursuit.
- C. It is the policy of _____ that the initiation of a vehicular pursuit is authorized when a suspect uses a vehicle to elude apprehension, and the following has occurred:

1. Any violent arrestable offense resulting in or threatening death or serious physical harm, or;
2. Driving in a manner which would indicate the driver is under the influence of alcohol or drugs or presents a threat to public safety.

D. It is the policy of _____ that the pursuing officer shall notify their supervisor and/or dispatcher that a pursuit is about to begin.

E. The policy of _____ prohibits vehicular pursuits:

1. When non-departmental personnel are in the police vehicle.
2. When a supervisor orders the pursuit terminated.
3. When the danger of pursuit outweighs the necessity to immediately apprehend the fleeing suspect.

Commentary: *Many of the reviewed policies discussed the prohibition of vehicle pursuits that might continue across state boundaries. Chiefs and Sheriffs of agencies that share boundaries with other states and the District of Columbia may wish to consider the inclusion of such a prohibition in their own Vehicle Pursuit policies.*

F. It is the policy of _____ that a pursuit shall terminate if the officer in a pursuing vehicle has been involved in a collision involving a personal injury.

III. Definitions:

- A. Vehicular pursuit: Any active attempt by a police officer in a vehicle to apprehend a fleeing suspect attempting to avoid apprehension. For the purposes of this policy, pursuit includes blocking and capture strategies (as well as new technologies) when there is an inherent danger.
- B. Violent Arrestable Offense: Any offense, to include assault, where the suspect intentionally caused or attempted to cause serious physical injury to another, and hit-and-run, which would result in the arrest of the suspect.

IV. Guiding Principles:

- A. This policy directs officers to report to their immediate supervisor any and all occurrences of vehicular pursuit. Supervisors may require written reports detailing the circumstances before, during and after the pursuit.
- B. The on-duty supervisor of the officer engaged in the pursuit should monitor the situation and direct the officer to terminate the pursuit whenever the supervisor believes the risk to public safety is higher than failure to apprehend the suspect.

C. Pursuits should be limited to two fully-marked vehicles with operable emergency equipment and radio communication. The secondary vehicle will communicate updates on the status, location and direction of the pursuit, via radio communications.

V. Related Cases:

A. *Hamilton v. Town of Palo*, 244 N.W. 2nd 329 (Iowa 1976)

B. *Ewing v. City of Detroit*, 543 N.W. 2nd 1 (Michigan App. 1995)

B. *Mason v. Britton*, 534 P.2nd 1360 (Washington 1975)

D. *Sacramento v. Lewis*, 118 S.Ct. 1708, 523 U.S. 833 (1998)

E. *Boyer v. State of Maryland et al.*, 323 Md. 558, 594 A.2d 121 (1991).

EVIDENCE

I. Purpose:

The purpose of this policy is to establish guidelines for the collection, documentation and handling of physical evidence.

II. Policy:

It is the policy of _____ to collect and preserve all relevant evidence, including exculpatory evidence, in a manner which insures its integrity and suitability for presentation in court.

Collection:

1. It is the policy of _____ to have responding officers secure and preserve the crime scene as quickly and safely as possible. Dependent upon the nature of the scene, officers shall make use of additional officers, barricades, barrier tapes or ropes and signs to secure and preserve the integrity of the scene and any potential evidence.
2. It is the policy of _____ to utilize an expert evidence technician or specially-trained evidence recovery team if these resources are reasonably available.
3. It is the policy of _____ to recover all relevant physical evidence at all known crime scenes.
4. It is the policy of _____ to ensure a suitable level of crime scene supervision when considering the seriousness of the crime, the complexity of the scene, the type of evidence to be identified and/or collected, the experience of available personnel and other related factors.
5. It is the policy of _____ to make appropriate equipment available for evidence collection and preservation at all crime scenes. This shall include but is not limited to:
 - a. Materials necessary for fingerprint recovery and preservation,
 - b. Photography equipment (cameras and appropriate film, batteries, lights, flashes, etc.),
 - c. Sketching equipment (graph paper, templates, pencils, erasers, measuring tapes, rulers, etc.).

6. It is the policy of _____ that a proper chain-of-custody for all cataloged evidence shall be accurately and consistently maintained by recording all changes of custody for each piece of evidence. To this extent, each recorded transfer of evidence will stipulate the time and date of the transfer as well as the name of the receiving officer or police employee. It will also be the policy to minimize the number of evidence transfers.
7. It is the policy of _____ that all evidence preservation containers shall be cataloged and stored in a secure location which will allow their immediate retrieval when necessary.
8. It is the policy of _____ that all evidence be properly maintained until it is no longer legally relevant. If police custody of an item is no longer necessary, it shall be returned to its legal owner or subjected to proper disposal.

III. Guiding Principles:

Preservation and Documentation:

1. Upon recovering a piece of evidence, an officer or evidence technician shall record the time and place of this recovery in an offense or incident report.
2. All recovered evidence will be preserved in plastic or paper bags or otherwise appropriate containers.
3. When collecting and handling evidence, officers should be particularly careful and protect themselves against blood borne pathogens.

IV. Definitions:

- A. Physical Evidence: Any substance, material or item found or recovered in connection with a criminal investigation.
- B. Chain of Custody: The continuity of the custody of physical evidence from the time of collection to the time of disposal.
- C. Crime Scene: The space immediately surrounding the area where a crime has occurred.
- D. Evidence Technician: Those police personnel who have been specially trained in the identification, recovery and preservation of physical evidence.

V. Selected Relevant Cases:

- A. *Breithaupt v. Abram*, 352 U.S. 432 (1957)
- B. *Schmerber v. California*, 384 U.S. 757 (1966)
- C. *Cupp v. Murphy*, 412 U.S. 291 (1973)
- D. *U.S. v. Montoya De Hernandez*, 473 U.S. 531 (1985)
- E. *California v. Acevedo*, 500 U.S. 565, 111 S.Ct. 1982 (1991)

EMPLOYMENT STANDARDS

I. Purpose:

The purpose of this policy is to establish guidelines for the proper selection of police officer or sheriff deputy candidates. It is expected that these standards will be used as minimum requirements.

II. Policy:

- A. It is the policy of _____ that to be considered for employment as a sworn member, applicants must complete a personal history statement, pass mental and physical examinations, provide the department with a list of personal and work-related references and otherwise meet the Maryland Police Training Commission's requirements for certification.

By policy, the _____ subscribes to the medical and psychological standards set forth in the *Job Task Analysis Study of Entry-Level Law Enforcement in the State of Maryland*, conducted and published by the Maryland Chiefs of Police Association, 1996.

- B. It is the policy of _____ that all active officers pass periodic medical, physical and psychological examinations.
- C. It is the policy of _____ that applicants selected for employment as a sworn member meet or exceed these minimum qualifications:
1. Applicants must be a United States Citizen at the time of appointment.
 2. Applicants must have received a high school diploma or the equivalent.
 2. Applicants must have reached their 21st birthday upon completion of academy training.
 3. Applicants must be subjected to an initial physical examination by a licensed physician to determine if the applicant is physically fit and able to perform the daily duties of a police officer. (This examination will include tests of visual and hearing acuity).
 4. Applicants must be certified by a licensed mental health care professional to be emotionally and mentally fit for the duties of a police officer.
 5. Applicants must have a valid driving license for the state of their residency prior to the beginning of recruit training.

6. The applicant's criminal record and drug-use experience may be disqualifying, even if circumstances appear to be very minor, as will any experience which may jeopardize an officer's credibility to enforce the law, testify under oath, in court, and related enforcement practices.
 7. Applicants must submit to a polygraph or other truth verification examination.
- D. It is the policy of _____ to abide by the provisions of the *American with Disabilities Act*, and all other federal statutes and regulations governing employment standards.

III. Definitions:

- A. Applicant: A person who is applying for the opportunity to be admitted to a police academy to eventually become a certified police officer.
- B. Background Investigation: The intensive review of an applicant's background to determine if the person is appropriately qualified to be a police officer.

IV. Selected Relevant Cases:

- A. *National Treasury Employees Union v. Von Raab*, 489 U.S. 656 (1989)
- B. *Skinner v. Railway Labor Executives' Association*, 489 U.S. 602 (1989)
- C. *O'Connor v. Ortega*, 480 U.S. 709 (1989)

TRAINING STANDARDS

I. Purpose:

The purpose of this policy is to establish general standards necessary for adequate police officer training. It is expected that adequately trained officers will enhance the efficiency of accomplishing the goals of police work as well as provide for improved community/police relations.

II. Policy:

A. It is the policy of _____ that all recruit officers will be competently trained in the required knowledge, skills and abilities associated with the daily circumstances of police work before they are actively used in enforcement activities or are able to make arrests. Generally, initial training will take place in an academy or classroom setting and will meet the standards of the Maryland Police Training Commission. Typical areas of initial instruction will include but are not limited to:

1. Administrative Duties
2. Constitutional and Statutory Law
3. Routine Patrol
4. Traffic Enforcement
5. Criminal Investigation
6. Report Writing
7. Community Policing
8. Crisis Intervention
9. Emergency Medical Care
10. Prisoner Processing
11. Firearms Training
12. Driver Training
13. Physical Education
14. Use of Force and Self Defense.

B. It is the policy of _____ that academic training of the recruit officer will be supported with a period of field training. During Field Training, all trainees will be paired with an experienced officer. Throughout the period of field training, the Field Training Officer will supply periodic reports to the Commanding Officer on the progress of the new officer. At the conclusion of the Field Training, the Field Training Officer will recommend to the Commanding Officer if any remedial training is necessary.

C. It is the policy of _____ that proficiency in the use of firearms for all officers will be determined by periodic qualification. At a minimum, the requirements for qualification will meet the standards established by the Maryland Police Training Commission.

- D. It is the policy of _____ to apply remedial or enhancement training as a non-punitive alternative whenever an officer's performance is identified to be below established standards. The employment of remedial training is reserved for those circumstances determined by the Commanding Officer to be a reasonable alternative or supplement to punitive action.
- E. It is the policy of _____ to insure training is consistent with the needs of the officers. That is, as technology or criminal tendencies change, members will be made aware of, and trained in these areas to effectively enforce the law.

III. Guiding Principles:

- A. Training fees, the cost of materials for training, and any other related expenses will be provided by or reimbursed by the police agency.
- B. Recruits scheduled for training must attend all training sessions and be punctual unless there is illness or other reasonable excuses. In-Service officers have the same requirements during their subsequent training.
- C. Because of the requirements of police work, it is mandatory that officers be trained in Cardiopulmonary Resuscitation (CPR) and first aid.

IV. Definitions:

- A. Recruit: Any officer candidate who has not completed all academy requirements necessary to become a certified police officer with the agency.
- B. Field Training Officer: The officer to whom a recruit officer is assigned for practical training during routine patrols.
- C. Field Training: A period of training, subsequent to academic training, which takes place during normal enforcement activities. These assignments are used to familiarize the new officer with the circumstances surrounding routine police work while under the supervision of a Field Training Officer.

V. Selected Relevant Cases:

- A. *City of Canton v. Harris*, 489 U.S. 378 (1989)
- B. *Pembaur v. Cincinnati*, 475 U.S. 469 (1986)
- C. *Oklahoma City v. Tuttle*, 471 U.S. 808 (1985)
- D. *Monell v. New York City Department of Social Services*, 436 U.S. 658 (1978)

HANDLING OF JUVENILES

I. Purpose:

The purpose of this policy is to establish guidelines for the proper disposition of juvenile cases.

II. Policy:

- A. It is the policy of _____ that officers will use discretion to make use of the least forceful and intrusive alternative available consistent with maintaining public safety, order, and individual liberty. In particular, as in cases involving minor offenses, officers will consider releasing the juvenile offender to the custody of a parent or legal guardian at the scene of the incident before transporting the juvenile to a police facility and formally processing the juvenile.
- B. It is the policy of _____ to insure the constitutional rights of juveniles, including rights against self-incrimination and search and seizure, are never compromised and shall be completely protected at all times.
- C. It is the policy of _____ that, during the temporary detention period, a juvenile must be separated by sight and sound from all adult offenders who may also be in the custody of the police.
- D. It is the policy of _____ that a juvenile must not be transported together with adults who have been charged with or convicted of a crime unless the court has waived its jurisdiction and the child is being proceeded against as an adult.

III. Guiding Principles:

- A. Constitutional rights against self-incrimination must be read and explained to the juvenile (and the juvenile's parent or guardian where possible) prior to each custodial interrogation. Only a juvenile can waive his or her rights. This may be done in the presence of a custodial adult (e.g., parent, guardian, Juvenile Services representative). No one, including his parents, should be permitted to influence or force the juvenile to waive his or her rights. Interviews with the juvenile offender should be conducted in a non-threatening manner and in the presence of at least two (2) officers. Additionally, a juvenile's parents or guardian, or a representative from Juvenile Services, may be present throughout all stages of the interview.
- B. The parents or legal guardian of a juvenile who has been taken into custody should be notified of the custody and surrounding circumstances as soon as possible.

- C. When a juvenile has been taken into custody, the length of detention should be limited to only that amount of time which is immediately necessary, and not to exceed six hours for the purposes of identification, processing, or transfer to another facility.
- D. Officers should only take custody of a status offender (a child in need of supervision) when there is sufficient reason to believe that the juvenile will run away if not taken into custody immediately, or there are exigent circumstances. Under such circumstances, status offenders shall be detained separately and transported separately from delinquent offenders.
- E. When the officer has taken a juvenile into custody and it is deemed necessary to further detain him pending a hearing, there must be an immediate contact with the local Department of Juvenile Services Intake Coordinator for authorization. That division will make the decision to release or detain the juvenile.
- F. Formal processing should be considered when the delinquent act in question:
 - 1. Would be a felony if committed by an adult.
 - 2. Involved the use of weapons.
 - 2. Involved an aggravated assault or battery.
 - 4. Was related to gang activity.
 - 6. Was committed by a juvenile currently under probation or parole.
 - 7. Was committed by a juvenile who has repeatedly committed delinquent acts within the past 12 months.
 - 8. Later investigation reveals that parental supervision has been inadequate.
- G. Photographing and Fingerprinting a Juvenile:
 - 1. Juveniles under the age of 14 years should not be photographed and fingerprinted unless it is authorized by the arresting officer's supervisor.
 - 2. Juveniles 14 years or older should be photographed and fingerprinted for any felony or the following misdemeanors:
 - a. Narcotics offenses.
 - b. Unauthorized use of a Motor Vehicle.
 - d. All sex offenses.

(All other misdemeanor offenses would require authorization by the arresting officer's supervisor.)

H. Maryland state law requires notification of the appropriate public school superintendent within 24 hours, or as soon as possible, when a juvenile enrolled in a public school is charged with a crime of violence or any weapons charge (to include pepper spray). See *Education Article of the Annotated Code of Maryland 7-303*.

IV. Definitions:

A. Juvenile: Any person under the age of 18 years.

B. Status offender: A juvenile who has committed an act which would not be a crime if committed by an adult (e.g., runaway, truancy, alcohol prohibitions, etc.).

C. Delinquent Child: A juvenile offender who is charged with an offense which, if committed by an adult, would be a crime.

D. Non-Offender (Child in need of assistance): A juvenile subject to juvenile court jurisdiction usually under abuse, dependency, or neglect statutes and not because of delinquent behavior.

V. Selected Relevant Cases:

A. *Haley v. Ohio*, 332 U.S. 596 (1948)

B. *In Re Gault*, 387 U.S. 1 (1967)

C. *Breed v. Jones*, 421 U.S. 519 (1975)

D. *Schall v. Martin*, 467 U.S. 253 (1984)

E. *New Jersey v. T.L.O.*, 469 U.S. 325, 105 S.Ct. 733 (1985)

F. *Illinois v. Gates*, 462 U.S. 213 (1983)

DOMESTIC VIOLENCE INVESTIGATIONS

I. Purpose:

The purpose of this policy is to establish guidelines for handling cases which involve violence among domestic partners.¹

II. Policy:

- A. It is the policy of _____ that domestic violence will be handled as a crime without regard for the relationship between the victim and the offender or the probability of prosecution by the victim.
- B. It is the policy of _____ to dispatch at least two officers, when available, to each case that involves allegations of domestic violence. The officer who is first to respond will be the primary officer to handle the case until he or she is relieved of this duty by a supervising officer.
- C. It is the policy of _____ that, when dispatched to a reported case of domestic violence, officers will act in a pro-active fashion with an emphasis towards arresting domestic abuse offenders and protecting victims. Officers will arrest domestic abuse offenders without warrants when there is probable cause to believe the following, as set forth in the *Annotated Code of Maryland, Criminal Procedures Article, §2-204*:
 - 1. The battered person is the offender's spouse, or the abuser and the victim share a residence, and;
 - 2. There is evidence of physical injury, and;

¹ Our model policy for Domestic Violence Investigations is not intended to supercede the more extensive Model Domestic Violence Policy for the Maryland Law Enforcement Community published in 1998 by the Maryland Network Against Domestic Violence (MNADV). We believe that our model policy is consistent with the key components (e.g., arrest, investigation, victim assistance) of the MNADV model policy; however, the MNADV model policy is more in depth, and it addresses the procedural concerns which we believe are not consistent with our goal of developing model policy for law enforcement without directing specific procedures. We expect that with either model policy as a guide, individual chiefs and sheriffs will be able to develop their own policy and procedures for enforcing domestic violence laws.

3. Unless immediately arrested, the abuser will elude apprehension, cause physical injury or property damage, or will tamper with, dispose of, or destroy evidence, and;
 4. A report to the police was made within 48 hours of the alleged incident.
- D. It is the policy of _____ that, when officers have determined that an assault has occurred, the health and safety of the victim should be assessed immediately, and if appropriate, medical assistance provided. Subsequent to this, priority should be given to the following:
1. Arrest the assailant if it is possible to do so in accordance with Section II. C of this policy.
 2. Secure the crime scene and preserve any available evidence.
 2. Request a crime lab technician to respond to the scene of the crime.
 4. Interview any witnesses.

III. Guiding Principles:

- A. Before leaving the scene of a domestic assault, the officers should provide information to the victim indicating the availability of legal remedies to prevent further violence as well as the availability of local support services. *See also, Family Law §§ 4-501- 515.*
- B. Officers who respond to cases involving domestic abuse should complete a written incident report before the end of their shift.
- C. Officers should determine that an incident of domestic violence actually occurred based on the preliminary investigation, and not rely on the nature of the call for service broadcast by the dispatcher.

IV. Definitions:

- A. Probable Cause: A conclusion based upon information known to the officer at the time which leads to the reasonable belief that a crime has been, is being, or is about to be committed by a particular individual.
- B. Domestic Violence (Also, Domestic Assault or Domestic Abuse): Any act of violence between two people who are either married or living within the same resident

SEXUAL ASSAULT INVESTIGATIONS

I. Purpose:

The purpose of this policy statement is to establish guidelines to govern the conduct of sexual assault investigations and to emphasize a compassionate and supportive approach on the part of the investigating officers toward the victim.

II. Policy:

- A. It is the policy of _____ that the health and safety of a sexual assault victim is of paramount importance. The victim's physical condition and mental state should be immediately assessed and appropriate medical attention provided, if required.
- B. It is the policy of _____ that the first officer to respond to a sexual assault has three primary responsibilities:
 - 1. Physically protect and emotionally support the victim.
 - 2. Identify, isolate and protect the crime scene.
 - 3. Conduct a quality preliminary investigation.
- C. It is the policy of _____ that the investigating officer shall candidly inform the victim what will be expected of him/her in the ensuing criminal investigation and any possible court appearances.
- D. It is the policy of _____ to respect and protect the identity and confidentiality of the sexual assault victim.
- E. It is the policy of _____ to deal with all sexual assault victims in a totally considerate and empathetic manner and to conduct the investigation objectively and professionally, without any preconceived or biased judgments relating to the victim's background, personal circumstances or perceived motivation.

III. Guiding Principles:

- A. Officers investigating sexual assaults will not, at the onset of a sexual assault investigation, routinely request victims to undergo a polygraph examination merely to pre-assess the credibility of their account. The use of a polygraph examination of the victim shall only be sought after the completion of a thorough investigation of all

the available evidence relating to the reported incident.

- B. Polygraph examinations of sexual assault victims shall only be considered when the investigating officer has reasonable and articulable suspicion that a relevant and important part of the victim's report or testimony is false.
- C. The principal investigating officer shall keep the sexual assault victim informed of the progress of the investigation.
- D. Investigating officers will clearly and patiently explain to sexual assault victims the availability of appropriate victim assistance programs and services within their jurisdiction.
- E. Investigating officers will explain to sexual assault victims the purpose and availability of judicial Peace Orders and Protective Orders.

IV. Definitions:

- A. Protective Orders are available for persons who have a relationship with the abuser: current or former spouse; cohabitant; have a child in common; relative by blood, marriage or adoption; or a victim, parent, stepparent, child or stepchild (of victim or abuser) who has lived with the abuser at least ninety days of the year before a Protective Order is sought. Vulnerable adults also may qualify for protective orders.
- B. Peace Orders are not available for persons who qualify for Protective Orders. They are available for victims who have been subjected to serious bodily harm and/or are in fear of imminent serious bodily harm and are not related to the suspect-abuser. For example: persons who have been victimized by a neighbor, stranger, or someone with whom they are involved in a dating relationship may qualify for a Peace Order.
- C. Victims Assistance programs are available in all Maryland counties and Baltimore City. They include 24-hour telephone "Hotlines," crisis intervention, counseling, therapy, and professional service referrals. Most are free-of-charge.

V. Related Law:

- A. Peace Orders are covered in the *Annotated Code of Maryland* under the *Courts and Judicial Proceedings Article §§3-1501–1509*.
- B. Protective Orders and temporary Ex Parte Orders are covered in the *Annotated Code of Maryland* under the *Family Law Article, §§4-501-515*.
- C. Every law enforcement officer who receives a sexual assault report shall offer the

victim the opportunity to be taken immediately to the nearest designated health facility, regardless of the type or degree of sexual assault reported. See: *Annotated Code of Maryland, Criminal Procedure Article §11-924*.

- D. On first contact with a sexual assault victim, a law enforcement officer shall give the victim a copy of a pamphlet describing victims' rights, services, and procedures, before and after the filing of a charging document other than an indictment or information in circuit court. See: *Annotated Code of Maryland, Criminal Procedure Article §11-104(b) and §11-914*.

(Revision Date: 12/22/00)

INVESTIGATION OF MISCONDUCT

I. Purpose:

The purpose of this policy is to establish guidelines for receiving and investigating complaints and allegations of misconduct by police officers. Guidelines for disciplinary action will also be suggested.

II. Policy:

- A. It is the policy of _____ to receive all complaints of misconduct courteously, record all complaints on a standard form, and to investigate each complaint seriously and professionally. All members of the Department are authorized to receive complaints in writing, by telephone, and through personal communication. This information will then be recorded and forwarded to the appropriate supervisor designated to investigate such complaints, or to the Office of the Chief (Sheriff). The degree of seriousness of the allegation or complaint will determine the course of the investigation. Less serious circumstances may be delegated to the officer-in-question's immediate supervisor. Serious allegations (including, but not limited to those involving corruption, misuse of force, breach of civil rights, untruthful statements, criminal misconduct, etc.) will be investigated thoroughly by the designated supervisor.
- B. It is the policy of _____ that, members of the Department who have witnessed a serious violation of departmental regulations by a member of their own agency, by an act of commission or omission, shall report this violation as soon as possible to their immediate supervisor. Additionally, members are required to report as soon as possible to their immediate supervisor all criminal and hazardous traffic violations for which they are themselves charged.
- C. It is the policy of _____ to fully investigate all charges of misconduct alleged against members of other law enforcement agencies and to notify the officer's parent agency of the alleged misconduct.
- D. To ensure all members of the department apply only the appropriate level of force, it is the policy of _____ that all reports of the use of force will be reviewed thoroughly by _____. In a similar fashion, all reports of on-duty officers discharging a firearm away from a firing range will be reviewed
- E. It is the policy of _____ to establish a progressive continuum of disciplinary action to be used when instances of misconduct are identified. This continuum will

range from verbal and written reprimands to suspensions or termination of employment.

- F. It is the policy of _____ that, disciplinary procedures and actions will be applied to all officers in accordance with the *Law Enforcement Officers' Bill of Rights* and other personnel and human resources policies. (See *Annotated Code of Maryland, Public Safety Article, §§ 3-10 – 3-113*).

III. Guiding Principles:

- A. The officer in charge of the investigation will report to the Chief on the issues of the investigation and the results of the completed investigation in a timely manner.
- B. The officer in charge of investigating the complaint is responsible for informing the officer or officers involved in the complaint that an investigation is being conducted. When the investigation is completed, all parties (including the complainant) will be notified of the disposition in a timely fashion.
- C. For some violations of Departmental regulations, it may be appropriate to use remedial training or counseling services as non-punitive sanctions.
- D. All complaints or allegations of misconduct should be treated as confidential information whenever possible.
- E. When complaints are received anonymously, effort should be made to identify the complainant where possible.
- F. Summary punishments may be imposed when the accused officer agrees to waive his or her rights to a disciplinary hearing and the unit supervisor agrees to the imposition. Summary punishments may range from a letter of reprimand as the least severe punishment to three days without pay or a fine of \$150.00 as the most severe.

IV. Selected Relevant Cases:

- A. *City of Hagerstown v. Moats*, 568 A 2d 1181 (1990)
- B. *Meyers v. Montgomery County Police Dept.*, 96 Md. App 668 (1993)
- C. *Caldor, Inc. v. Bowden*, 330 Md. 632 (1993)
- D. *Maryland State Police v. Ziegler*, 330 Md. 540 (1993)
- E. *Jones v. Baltimore City Police Dept.*, 326 Md. 480 (1992)
- F. *Miner v. Novotny*, 304 Md. 164 (1985)

G. *Lodowski v. State*, 302 Md. 691, 490 A.2d 1228 (1985), *cert. granted and judgement vacated*, 475 U.S. 1078, 106 S.Ct. 1452 (1986), *remand* 307 Md. 233, 513 A.2d 299 (1986)

H. *Steffey v. State*, 82 Md. App 647 (1990)

I. *Baltimore City Police Dept. v. Andrew*, 318 Md. 3 (1989)

INTER-AGENCY NOTIFICATION

I. Purpose:

The purpose of this policy is to establish guidelines for the notification of other Maryland law enforcement agencies whenever a member of their agency is the subject of law enforcement action, including but not limited to criminal arrest.

II. Policy:

- A. It is the policy of _____ to subscribe to the provisions of the ***Policy of Cooperation*** as developed by the Legal Advisors Committee of the Maryland Chiefs of Police Association.
- B. It is the policy of _____ to notify the on-duty ranking member of any law enforcement agency whenever a member of that agency has been arrested or the subject of a criminal warrant or summons, provided such notification does not compromise any on-going criminal investigation.
- C. It is the policy of _____ to notify the on-duty ranking member of any Maryland law enforcement agency whenever a member of that agency has been identified as the aggressive party in a domestic violence incident, regardless of the immediate or subsequent decision of the victim to seek an Ex Parte or Protective Order or initiate or participate in criminal prosecution.
- D. It is the policy of _____ to initiate an internal investigation whenever this agency is notified by another Maryland law enforcement agency that a member has been arrested or the subject of a criminal warrant or criminal summons, or identified as the aggressive party in a domestic violence incident.

III. Guiding Principles:

- A. The ***Policy of Cooperation***, as developed by the Legal Advisors Committee of the Maryland Chiefs of Police Association, contains most of the provisions of this policy area. Subscribers form a network for inter-agency notification.

MANAGEMENT OF INFORMANTS

I. Purpose:

The purpose of this policy is to establish guidelines for managing and monitoring all contact with confidential informants.

II. Policy:

- A. It is the policy of _____ to make use of confidential informants only to seek information which could further an ongoing investigation, prevent ongoing criminal activity, aid in the apprehension of a criminal suspect, seize illegal goods, or otherwise assist in law enforcement activities. Before any contact may begin with an informant, approval must be given by the officer's immediate supervisor or commanding officer.
- B. It is the policy of _____ to maintain a secure file, separate from other departmental records, for each active confidential informant. This file will be used to monitor the activity of the informant, to contain descriptive information about the informant (including a photograph, known addresses, aliases, etc.), to maintain an activity log and list of officer contacts, and to record all information regarding compensation and the utility of any information gathered by use of the informant.
- C. It is the policy of _____ that, no informant will be permitted to violate any criminal or motor vehicle law in connection with gathering information, and such violations will be investigated for prosecution.
- D. It is the policy of _____ that, compensation of informants shall only be offered when the officer has determined that the informant can legitimately assist in law enforcement activities. All forms of monetary compensation for an informant must be approved by the officer's immediate supervisor. When monetary compensation is delivered in exchange for information, the informant must sign a receipt witnessed by at least two officers and placed in the informant's activity file.
- E. It is the policy of _____ that, compensation in the form of plea bargaining must only be

Commentary: Many of the reviewed policies included a stipulation which requires all investigative contact with confidential informants to be conducted in the presence of at least two officers. To the extent that this may be practical, the Advisory Board recommends that Chiefs and Sheriffs consider including this in their own Management of Informants policies so that any testimony may more easily be substantiated. Chiefs and Sheriffs are also advised to consider directing the members of their organizations to communicate with their supervisors and/or a representative member of the Department of Parole and Probation whenever informants on parole or probation are used for investigative purposes.

conducted by, in the company of, or with the expressed approval of a representative from the State's Attorney's office.

- F. It is the policy of _____ that, the use of juvenile informants (i.e., 17 years of age or younger) is allowed when permission has been granted from the officer's supervisor and the juvenile's parents, guardian, or legal custodian.

III. Guiding Principles:

- A. The use of juvenile informants should be avoided whenever possible.
- B. The identity of a confidential informant should be maintained as confidential. The disclosure of an informant's identity should be avoided; however, the informant should be advised that the possibility exists that his/her identity and capacity may be divulged.
- C. When an informant's information has been determined to be unreliable or has no utility, the informant should be deactivated from police use; however, this does not limit the ability to activate an informant once reliability has been reestablished.
- D. The informant must agree to a search of his/her person and vehicle before and after the specific operation in which he/she is assisting.
- E. The informant should sign a waiver of liability against the Department which states the inherent risk associated with working as an informant. Also, this signing should be witnessed by at least two officers.

IV. Definitions:

- A. Compensation: For the purposes of this policy, compensation is not limited to monetary payments but may include plea bargaining to a lesser charge or other such agreements.

V. Selected Relevant Cases:

- A. *Roviaro v. United States*, 353 U.S. 53, 77 S.Ct. 623 (1957)
- B. *U.S. v. Valenzuela-Bernal*, 458 U.S. 858 (1982)

RELEASE OF INFORMATION

I. Purpose:

The purpose of this policy is to establish guidelines for the release of information, and in particular, the release of information to representatives of the media. The release of information is expected to enhance the relationship between the police agency and the community which it serves, and to gain public support in the crime control effort.

II. Policy:

A. Structure of Information Release:

1. It is the policy of _____ to release information to the public in a timely and accurate fashion by assigning the duty of controlling and disseminating public information to one office or officer.
2. It is the policy of _____ that, in the absence of a designated Public Information Officer, unit commanders will control the release of public information.

B. Restrictions on the Release of Information:

1. It is the policy of _____ that the following information is NOT to be released:
 - a. The identity of victims of sex-related crimes.
 - b. The identity of a suspect for whom a warrant or summons has not been issued or indictment returned.
 - c. The existence or contents of any confession, admission, or statement of the accused.
 - d. The identity, comments, expected testimony or credibility of any witness.
 - e. Any statements regarding the innocence or guilt of the accused, the merits of the case, the possibility of a plea, or the value of evidence when these statements are based upon an officer's own opinion.
 - f. The identity of a juvenile arrestee who has not been waived by the Court as an adult. (Also, refer to section II, B.3)
 - g. The identity of a deceased person before next-of-kin have been notified.

- h. Information regarding special enforcement tactics that have been planned in advance (e.g., raids, stake-outs, or special assignments, etc.) except where it may be beneficial to release such information in advance (e.g., DWI, seatbelt, and out-of-state license plate checkpoints).
 - i. Any information which could impede the enforcement of the law or an on-going investigation.
 - j. Any information which is legally privileged.
 - k. Any information which violates or jeopardizes the constitutional rights of an accused person.
 - l. Any information that could jeopardize the safety of an officer, victim, witness or informant.
 - m. Any information that could cause embarrassment or harm to a victim or witness (e.g., name or address of a suspected abuser living in the same residence as the victim).
2. Upon request, the following information MAY be released:
- a. The type of event or crime and where it occurred.
 - b. Identity of victim (unless the crime was a sexual assault, the victim has requested to remain unidentified, or in the case of death, the victim's next-of-kin have not been notified).
 - c. The name, age, city of residence, and other background information of a charged suspect.
 - d. The charge upon which an arrest has been made.
 - e. Circumstances of the arrest.
 - f. Custody status.
 - g. Dates of hearings.
 - h. Identifying photographs, only if they are available and do not contain police identification data.
3. It is the policy of _____ to release information in regards to criminal offenses committed by juvenile delinquents only as follows:
- a. Any distinctly identifying information, such as name or address, will NOT be released.
 - b. A juvenile's age, sex, city of residence, and the details of the offense MAY be released.
 - c. Only those traffic offenses which have been committed by juveniles over the age of 16 years and not subject to penalties of incarceration shall be available for release.

- d. The release of information regarding juvenile defendants who are charged as adults will follow the guidelines established for adult defendants.

C. Release to Media Representatives:

1. It is the policy of _____ to accept requests for the release of information by bona fide representatives from the media when the necessary credentials have been verified.
2. It is the policy of _____ that, information will not be released to media representatives with any particular favor or prejudice.

D. Officer Information:

1. It is the policy of _____ that, personal addresses and telephone numbers of police personnel will not be released at any time.

III. Guiding Principles:

Although it is important to release information in a timely manner, priority must be given to the security of a crime scene or disaster area. In this sense, the preservation of any evidence and the safety of bystanders, police officers, and media representatives should take precedence over the access to a scene or the dissemination of information.

IV. Selected Relevant Cases:

A. *Press Enterprise Co. v. Superior Court*, 478 U.S. 1 (1986)

B. *Patton v. Yount*, 467 U.S. 1025 (1984)

C. *Rideau v. Louisiana*, 373 U.S. 723 (1963)

D. *Sheppard v. Maxwell*, 384 U.S. 333 (1966)

E. *Smith v. Daily Mail Publishing Co.*, 443 U.S. 97 (1979)

F. *U.S. v. Regan*, 878 F.2d 67 (1989)

G. *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980)

RIDE-ALONG PROGRAM

I. Purpose:

The purpose of this policy is to establish guidelines under which citizens are permitted to participate in departmental ride-along programs. Such programs assist departments develop positive public relations and provide educational experiences for officers and citizens.²

II. Policy:

- A. It is the policy of _____ to allow civilians to participate in a ride-along program which allows them to accompany individual officers on patrol for observational or educational purposes.
- B. It is the policy of _____ that, participants of the ride-along program must submit a waiver of claim and liability before the commencement of the assigned ride.
- C. To ensure the proper safety of each participant, it is the policy of _____ that participants will be required to wear a seat-belt throughout the duration of the patrol and must pay particular attention to any commands given to them by the officer.
- D. It is the policy of _____ that participation in the program will be limited to:
 - 1. Citizens over the age of 18 years.
 - 2. Visiting law enforcement personnel.
 - 3. Adult relatives of active or retired Departmental personnel.

² In accordance with our goal, this model policy for Ride-along Programs contains policy directives and guiding principles that are derived from the existing policies of the law enforcement agencies in Maryland. Last year, the Local Government Insurance Trust (LGIT) published their Ride-Along Personal Injury Protection (PIP) Policy Guidelines (1997). While the guidelines established by LGIT are somewhat more extensive, we believe that our model policy is consistent with the recommendations of LGIT as well as our own goals. In this sense, we expect that individual chiefs and sheriffs will be able to rely on both documents as suitable tools for policy development or refinement.

4. Professionals and students in the field of criminal justice or related social sciences.
 5. Members of the media and governmental officials.
 6. Participants who have not already participated in the past six months.
- E. It is the policy of _____ that, only one ride-along participant may accompany an officer at any given time.
- F. It is the policy of _____ that, prisoners will not be transported in the same vehicle as the ride-along participant.
- G. It is the policy of _____ to set and enforce dress standards for persons participating on ride-alongs.
- H. It is the policy of _____ to prohibit ride-along participants from carrying or possessing weapons of any kind (e.g., firearms) unless authorized by another police agency.

III. Guiding Principles:

- A. It is expected that each participant of the ride-along program will submit in advance an application form to be approved by the unit or squad commander or higher ranking officer. This application should include any and all requests for a specific time, date, or officer's name as well as a stated reason for wanting to participate. At the discretion of the Chief or his/her designee, applicants may be interviewed prior to being approved for participation.
- B. Where the officer believes that a participant's safety may be in jeopardy during a response to a call for service, that officer will discharge the ride-along participant at a location determined to be safe before responding to the call at hand. In such a case, the ride-along officer will communicate via radio to the dispatcher to indicate the location where the ride-along participant has been discharged.

IV. Relevant Case:

- A. *Wilson v. Layne*, 119 S.Ct. 1692 (1999)

Note: The United States Supreme Court has subsequently ruled that it is a violation of the Fourth Amendment for police to bring members of the media or other third parties into a home during the execution of a warrant, when the presence of the third parties in the home does not aid in the execution of the warrant. Agencies may consider examining their own policies with respect to civilian ride-alongs in light of this case.

PRISONER TRANSPORT

I. Purpose:

The purpose of this policy is to establish guidelines in the transportation of prisoners. It is expected that this policy will maximize the safety of the prisoner, the transporting officer, and the community.

II. Policy:

- A. It is the policy of _____ to take the necessary precautions to protect the safety of the prisoner, the transporting officer and the community. This shall include, but is not limited to, the following actions:
1. Restrain the prisoner with handcuffs or flex-cuffs utilized to the rear and other restraining devices where necessary.
 2. Search the prisoner thoroughly even if he or she has been searched previously.
 3. Search the transporting vehicle for contraband and inspect for safety.
 4. Secure the prisoner into the vehicle by using a seat-belt and shoulder harness. (See III. B below.)
 5. Maintain close guard over the prisoner at all times.
 6. Remove the prisoner from the scene without delay.
- B. It is the policy of _____ to restrict the transport of multiple prisoners in the following manner:
1. Unless juvenile jurisdiction has been waived, juvenile prisoners will not be transported in the same vehicles as adult prisoners.
 2. Juvenile "status" offenders will not be transported with juvenile "delinquent" offenders.
 3. Male and female prisoners cannot be transported in the same vehicle.
 4. Communication between prisoners will not be allowed without the transporting officer's permission.

5. Whenever possible, two officers will transport female prisoners.
- C. It is the policy of _____ to limit prisoners' ability to communicate while in transport by not allowing prisoners to communicate with or come in physical contact with any non-prisoner while in custody. Also, prisoners will not be allowed to exercise their right to counsel during transportation, and officers will not question a prisoner unless the prisoner has been properly notified of his or her *Miranda* rights.
- D. It is the policy of _____ to require police officers to communicate via radio to the dispatcher their approximate location, travel destination, time and mileage readings, and category (such as, adult male or juvenile female) of the prisoner before prisoner transportation begins.

III. Guiding Principles:

- A. It would be prudent to secure in advance alternate sources of transportation for prisoners with special circumstances. For instance, disabled, sick, or injured prisoners may need to be transported in vehicles other than standard patrol cars or departmental vans and will need alternative modes of transportation.
- B. Individual departments are advised to determine their own standards as to the physical placement of the prisoners in relation to the seating arrangements of one and two officer patrol cars. Also, departments are advised to develop strategies in apprehending prisoners who may escape during transport.
- C. Transporting a prisoner by commercial air transportation requires well established procedures which should be in line with the larger police agencies. For example, the specific authorization for carrying firearms are *Sections 108.11 and 108.21 of the Federal Aviation Regulation*.

REPORTING REQUIREMENTS

I. Purpose:

The purpose of this policy is to establish which activities encountered by police warrant the completion of a report. Completing a report immediately after such an event has occurred will aid the report writer by reducing confusion and disparate recall. Written reports also facilitate court testimony.

II. Policy:

- A. It is the policy of _____ to have officers complete a report, at least by the completion of their current shift, when incidents such as the following have occurred:
1. An officer has responded to a Part I, Part II, or other felony crime.
 2. A citizen has reported a complaint against an officer.
 3. An officer has responded to a criminal case by initiating an investigation.
 4. An officer has responded to a motor vehicle accident involving death, serious personal injury, or property damage.
 5. An officer has responded to an incident which could be considered a racial, religious, or ethnic hate crime.
 6. An officer has responded to an incident involving a domestic assault.
 7. An officer has responded to an incident involving the death of a person not due to natural illness.
 8. An officer has applied the use of force or when a suspect or arrestee has complained of an injury sustained during arrest or transport.
 9. An on-duty officer has discharged a firearm in a circumstance other than during training.
 10. An officer has been involved in a high speed pursuit.
 11. An officer has initiated an arrest.

- B. It is the policy of _____ that all officers will report the occurrence or clearance of less serious events to the dispatcher or through the Computer Assisted Dispatch and have this account act as a complete report.

III. Guiding Principles:

When an officer is unsure of the necessity of completing a written report, the officer should defer to the recommended course of action that is deemed appropriate by his or her immediate supervisor.

DISCRIMINATION AND SEXUAL HARASSMENT

I. Purpose:

The purpose of this policy is to establish definitions for *discrimination* and *sexual harassment* and to eliminate the presence of these in the workplace. It is expected that the elimination of these activities will establish an effective work environment and ultimately benefit the community.

II. Policy:

A. Discrimination:

1. It is the policy of _____ to not tolerate any form of discrimination in the employment of officers or civilian employees, the enforcement of law, the administration of any police services, or in normal interaction by employees in the workplace. State and federal law prohibits discrimination on the basis of sex, age, race, color, national origin, religion, marital status, political affiliation, disability, or sexual orientation.
2. It is the policy of _____ to direct all complaints of discrimination to either the Internal Affairs division or the personnel department (and/or other specified unit).
3. It is the policy of _____ to allow employees with concerns, questions, or complaints about discrimination to contact the Maryland State Human Relations Commission or any other local Human Relations Commission, the U.S. Equal Employment Opportunity Commission, or private legal counsel without a threat of disciplinary or other adverse action.
4. It is the policy of _____ to subject Department members whose conduct constitutes discrimination, or an official who knowingly permits such conduct, to disciplinary action which may range from formal reprimand up to and including dismissal.

B. Sexual Harassment:

1. It is the policy of _____ to not tolerate any form of sexual harassment that may occur during the enforcement of law, the administration of any police services, or in normal interaction by employees in the workplace.

2. It is the policy of _____ to direct all complaints of sexual harassment to either the Internal Affairs division or the personnel department (and/or other specified unit).
3. It is the policy of _____ to allow employees with concerns, questions, or complaints about sexual harassment to contact the Maryland State Human Relations Commission or any local Human Relations Commission, the U.S. Equal Employment Opportunity Commission, or private legal counsel without a threat of disciplinary or other adverse action.
4. It is the policy of _____ to subject Department members whose conduct constitutes sexual harassment, or an official who knowingly permits such conduct, to disciplinary action which may range from formal reprimand up to and including dismissal.
5. It is the policy of _____ to maintain the highest degree of confidentiality in all investigations involving alleged or determined sexual harassment.

C. Written Acknowledgment:

It is the policy of _____ that all members shall acknowledge in writing, receipt of a copy of these policies.

III. Guiding Principles:

- A. It is prudent for all supervisory personnel to conduct a prompt inquiry or investigation in regards to any instance of alleged discrimination or sexual harassment. Likewise, it is necessary for Departments to plan in advance a course of action which would include a proper chain of command for handling complaints, investigative strategies, and a scale for disciplinary action.
- B. Frequently, individuals may not be aware of what constitutes harassment or discrimination. For instance, sexual harassment can take the form of repeated verbal abuse, joking, ridiculing, offensive gestures, touching, patting, pinching and other inappropriate physical contact. It is important to include sufficient training on sexual harassment and discrimination to ensure that employees are aware of what constitutes harassment or discrimination so that their occurrence may be prevented.
- C. Failure by persons in authority to take appropriate action when it is shown that they have knowledge of discrimination or harassment will themselves be subject to disciplinary action.

- E. Where reasonable to do so, this policy does not forbid the antagonist from being confronted and notified that his/her behavior and activities are inappropriate and unwanted and must cease. If resolved satisfactorily at that point, no further action is necessary.
- F. Where a formal preliminary inquiry is requested, it must be completed within ten days. Where warranted, a full investigation then must be completed as soon as possible with a rating of high priority. The victim is to be notified of the ultimate disposition of the matter as soon as it is known.
- G. After disposition, the victim must be contacted periodically to ensure that the antagonist has not continued his/her improper conduct.

IV. Definitions:

- A. **Discrimination:** Any practice or procedure which limits or adversely affects employment opportunities or working conditions.
- B. **Sexual Harassment:** Unwelcome sexual advances, requests for favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of reasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. (U.S. Equal Employment Opportunity Commission).

V. Relevant Cases:

- A. *Burlington Industries, Inc. v. Ellerth*, 118 S.Ct. 2257, 524 U.S. 742 (1998)
- B. *Faragher v. City of Boca Raton*, 118 S.Ct. 2275, 524 U.S. 772 (1998)

Note: The United States Supreme Court has subsequently ruled that employers may be held vicariously liable for sexual harassment by their supervisors and managers, but that there is an affirmative defense available for employers who can show they took quick, appropriate action pursuant to an effective sexual harassment policy and complaint procedure.

SECOND AND OFF-DUTY FIREARMS

I. Purpose:

The purpose of this policy is to establish guidelines for the carrying of second and back-up duty firearms and firearms while off-duty.

II. Policy:

- A. It is the policy of _____ to comply with all regulations promulgated by the Maryland Police Training Commission regarding training and qualification with duty and off-duty weapons.
- B. It is the policy of _____ that authorization to carry any second or back-up firearm must be approved by _____.
1. Firearms to be used as second or back-up weapons must carry Departmentally-approved ammunition, and come from a designated list of Departmentally-approved weapons.
 2. Officers who wish to use a second or back-up firearm while on duty must submit a written request to _____ and pass a qualification examination with the weapon before that weapon may be carried while on duty. Officers must qualify at least once annually even if the make and model are identical to the primary weapon.
- C. It is the policy of _____ to allow officers to carry weapons while off-duty provided that they have submitted a request to _____ and have had that request approved.
1. Officers carrying firearms while off-duty must have their weapons concealed at all times and have on their person their badge and credentials to identify themselves as a police officer.
 2. Officers carrying firearms while off-duty must NOT be intoxicated or consume intoxicating substances, including prescribed and over-the-counter medication.
 3. Officers who decide to carry concealed weapons while off-duty are limited to using those weapons which formally have been approved by _____.
 4. Officers approved to carry firearms while off-duty are restricted to carrying these weapons only while they are in the State of Maryland

unless they are traveling to a state within which it is lawful for off-duty officers to carry firearms.

5. The officer must qualify at least once annually with the second or back-up firearm even if the make and model are identical to the on-duty weapon.
- D. It is the policy of _____ that, firearms approved for second or off-duty use must be protected from theft and damage at all times.
 - E. It is the policy of _____ that, unless required by the department, all second and off-duty firearms, and their corresponding ammunition, must be purchased at the officer's own expense.
 - F. It is the policy of _____ to require all issued weapons and approved second, back-up and off-duty weapons, be stored safely at all times. All weapons not under the immediate control of the officers shall be stored unloaded, in a secure location.

III. Guiding Principles:

- A. Individual departments should design their own list of firearms which are acceptable for second and off-duty use.
- B. Individual departments should limit the number of firearms per officer, which can be approved for second and off-duty use.

COMPUTERS AND ELECTRONIC DATABASES

I. Purpose:

The purpose of this policy is to establish guidelines for the use and security of computers and electronic databases.

II. Policy:

- A. It is the policy of _____ that, departmental computers are used only for appropriate police business.
- B. It is the policy of _____ that, software which is not purchased by the agency, or obtained or approved by the agency data coordinator, may not be used on any agency computer.
- C. It is the policy of _____ that, each employee shall consider all computer databases or electronic files the property of the Department and shall treat each as confidential information unless such files are intended for public dissemination.
- D. It is the policy of _____ to not allow any program or data file to be copied unless specifically authorized.
- E. It is the policy of _____ to store copies of files and programs on a routine basis at an off-site location. An off-site location must be in a building other than the one that houses the primary computer files and programs. Critical information is that which if damaged, lost, or altered would significantly impede the continued operation, or the effectiveness of the installation or the agency.

III. Guiding Principles:

- A. It is important that departments regularly monitor the license agreements for software programs which are installed on department computer equipment.
- B. As many officers as possible should be educated in the proper use of computers and their application in controlling and preventing crime.

DOCUMENTATION OF CALLS FOR SERVICE

I. Purpose:

The purpose of this policy is to establish the requirements for properly documenting police calls for service. This information will serve as a record of each call handled and disposed of by the agency.

II. Policy:

- A. It is the policy of _____ to maintain information on each call for service.
- B. It is the policy of _____ to review records of calls for service for the purposes of determining patterns of calls, efficient application of resources and the quality of service.

III. Guiding Principles:

- A. At a minimum the following information will be maintained for each call for service:
 - 1. A record of who placed the call (when available).
 - 2. A record of from where the call was placed.
 - 3. A record of the time when the call was received.
 - 4. A record of the purpose of the call.
 - 5. A record of the manner in which the call was disposed and by whom.
- B. These records should be maintained in electronic and printed form whenever possible and to make their retrieval as easy as possible.

MULTI-JURISDICTIONAL TASK FORCES

I. Purpose:

The purpose of this policy is to establish guidelines under which police agencies may wish to enter into joint agreements with other agencies in order to more effectively prevent or reveal criminal activities.

II. Policy:

- A. It is the policy of _____ to seek authorization from the Chief Executive Officer of the agency before any officer is permitted to engage in any multi-jurisdictional task force.
- B. It is the policy of _____ to ensure that any multi-jurisdictional task force operation in which it may participate has a direct benefit for its citizen population.

III. Guiding Principles:

- A. Agencies are advised to consider several factors before entering into a multi-jurisdictional task force agreement. Among these are cost effectiveness of the operation, scope and duration of the operation, direct benefit for the constituents of their own jurisdiction and liability exposure.

NEEDLE STICK INJURY

I. Purpose:

The purpose of this policy is to minimize potential exposure and to safely and effectively manage post-exposure of law enforcement personnel to actual or suspected Needle Stick injuries or other percutaneous injuries incurred in the line-of-duty.

II. Policy:

A. It is the policy of _____ that in the event of a needle stick injury to agency personnel, the following procedures will be employed within a maximum two (2) hour time-frame following the actual or suspected injury:

1. Encourage/induce the wound to bleed. Wash with soap and hot water, then swab the wound area with alcohol or agency-approved antiseptic towelettes.
2. Seek immediate attention at _____, located at _____, which is this agency's designated medical facility for examination and treatment of bloodborne pathogen exposure. If serious injury was sustained, respond to the nearest hospital for treatment.
3. Request medical evaluation of the risk of HIV/AIDS or other infections caused by bloodborne pathogens.
4. Request HIV/AIDS prophylaxis treatment of infection by bloodborne pathogens after consultation with treating physician.
5. Notify the appropriate supervisor.

B. It is the policy of _____ that a full and complete administrative report will be completed by the injured member's supervisor concerning any actual or suspected Needle Stick injuries. All agency records of incidents involving employees potentially exposed to HIV/AIDS shall be retained in a secure repository with limited access and maintained in compliance with applicable privacy laws.

C. It is the policy of _____ that agency personnel will exercise due caution, and whenever possible, wear suitable protective leather gloves, when engaged in any of the following activities:

1. Searching of all arrestees and suspects, male or female, adults or juvenile—
No exceptions.

2. Handling hypodermic needles or syringes, and other similar objects, including collecting and packaging these items as evidence.
 3. Placing needles, syringes and other similar objects in an agency-approved puncture-resistant container for evidence/property collection and transporting purposes.
- D. It is the policy of _____ that if an agency member sustains an actual or suspected Needle Stick injury as the result of an on-duty interaction with a suspect or another person, the agency will request and encourage that individual to submit to a blood test at _____, the agency-designated medical facility.
- E. It is the policy of _____ that, all sworn members and supervisors will ensure that they have a sufficient supply of approved puncture-resistant containers and antiseptic towelettes in their agency vehicles before beginning their duty-tour.
- F. It is the policy of _____ that, _____ the agency-designated medical facility will provide all necessary post-exposure testing and treatment, including individual and family counseling for the affected member.

III. Definitions:

- A. AIDS: AIDS is a virus known as human immuno-deficiency (HIV), an infectious disease that alters the body's immune system by destroying white blood cells that fight infection and disease and render the victim vulnerable to a variety of serious, eventually terminal ailments. There is presently no cure for HIV.
- B. Bloodborne Pathogens: A pathogen is a germ or virus in human blood that is transmitted from one person to another by an exchange of blood or other body fluids containing blood.
- C. Needle Stick Injury: Any breaking of the skin (percutaneous) by a hypodermic needle or syringe, or similar sharp object that might transmit bloodborne pathogens.
- D. Percutaneous: Through the skin, as by a cut or a puncture.

IV. Guiding Principles:

- A. Medical test results of all agency members sustaining Needle Stick or other percutaneous injury will be confidential and will not be revealed to any other person or entity without the affected member's written permission.
- B. Members who test positive for HIV infection or other communicable disease, shall be treated by the agency in a manner that is in full accordance with federal, state, and

local laws with respect to employees with physical conditions that may affect their work performance and do not pose an additional safety and health threat to themselves, the public, or members of the agency.

V. Selected Relevant Cases:

A. *Thomas v. State*, 128 Md. App. 274, 737 A.2d 622 (1999)

INVESTIGATIVE & ENFORCEMENT TRAFFIC STOPS

I. Purpose:

The purpose of the policy is to establish guidelines for conducting constitutionally valid investigative and enforcement traffic stops.

Commentary: *Requiring an officer to ask the operator's race or ethnic group may only enflame and prolong an already tense situation. Agencies may opt to instruct officers to use their personal judgement in assessing race and ethnicity.*

II. Policy:

A. It is the policy of _____ that, all investigative and enforcement traffic stops will be based upon articulable and constitutionally valid suspicions.

B. It is the policy of _____ that, a record system will be established to track investigative and enforcement traffic stops.

C. It is the policy of _____ that, all sworn members will receive periodic training on a _____ basis to reinforce previous training and/or to develop new skills to enhance police-citizen contacts.

Commentary: *The Advisory Committee anticipates that agencies will initiate appropriate training programs to reinforce interpersonal communication skills developed during entrance level courses. The length of in-service programs and frequency of delivery is best determined by each agency.*

III. Definitions:

A. Investigative stop: A stop based on reasonable articulable suspicion or knowledge of criminal activity. Information may originate with another officer or by independent investigation.

B. Enforcement stop: A stop initiated as a result of an observed violation of the criminal or traffic code.

C. Reasonable and articulable suspicion: Actions taken by the officer must be reasonable under the existing circumstances and based on the officer's knowledge at the time. Officers must be able to point to and describe the specific factors that raised suspicions and led him or her to take action in connection with the traffic stop.

D. *Whren* or "pretext" stop: The U.S. Supreme Court has determined that a law enforcement officer who observes a traffic violation may stop the violator, even though the true reason for the stop is the officer's interest in investigating whether the motorist is involved in other criminal activity. The constitutional reasonableness of a traffic stop does not depend on the actual motive of the individual officer. These

types of traffic stops are known as *Whren* or "pretext" stops.

- E. Seizure: In the context of traffic stops, a seizure takes place when an officer makes an investigative or enforcement stop. Seizures during all traffic stops are subject to Constitutional constraints.
- F. Subsequent seizure: This form of seizure occurs when the original reason for the stop has been satisfied and the officer continues to detain the motorist and passenger(s). Once the underlying basis for the initial stop has concluded, a police-driver or police-passenger encounter which implicates the Fourth Amendment is constitutionally permissible only if (1) the driver and passenger(s) consents to the continuing intrusion, or (2) the officer has, at a minimum, a reasonable, articulable suspicion that criminal activity is afoot.

IV. Guiding Principles:

- A. Law enforcement officers have a duty and authority to investigate suspicious activities that may be associated with the violation of criminal and motor vehicle laws. This duty does not include pursuing hunches or stereotyping, but is limited to reasonable articulable factors which would likely lead any knowledgeable, reasonable officer to the same conclusion, i.e. that a violation is occurring or has occurred.
- B. Any consideration, to any degree, of a person's race, ethnicity, age, or gender in law enforcement actions, including traffic stops, is absolutely prohibited. The only exception to this standard would occur if one or more characteristics were part of a specific lookout for a specific suspect. This applies to passengers as well as drivers.
- C. The recording and evaluating of statistical data is a management tool to be used, where appropriate, as a basis for counseling and training, and, if deemed necessary, further administrative inquiry. Police management will review and evaluate traffic stop data on a regular or periodic basis for patterns of prohibited activity.
- D. Officers should receive periodic training to enhance their ability to articulate and document their actions. By and large, officers take the proper actions for the proper reasons, yet fail to provide supporting documentation.
- E. Training programs should include a review of the Constitution and relevant case law affecting police-citizen contacts.
- F. Any such training should stress the importance of communication, particularly active listening and non-verbal cues.
- G. Police-citizen encounters, when done properly and professionally, have the potential to be positive community relations tools and can be a means of confronting adverse

anecdotal information.

- H. Nothing in this policy should be construed to alter the authority of a law enforcement officer to make an arrest, conduct a search or seizure, or otherwise fulfill the officer's law enforcement obligations.
- I. The record system will include data such as: race, ethnicity, age and gender of person stopped, suspicions of the officer that led to the contact, any enforcement action taken as a result of the contact, duration of the stop and any evidence or property seized as a result of the stop.
- J. Agencies should realize the advantage in issuing the driver and/or passenger(s) a receipt documenting the circumstances leading up to the stop and subsequent actions taken thereafter.

V. Related Cases:

- A. *Pryor v. State*, 122 Md. App. 671, 681, 716 A.2d 338, 343 (1997), *cert. denied* 352 Md. 312, 721 A.2d 990 (1998)
- B. *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868 (1968)
- C. *Whren v. U.S.*, 517 U.S. 806, 116 S.Ct. 1769 (1996)
- D. *Ferris v. State*, 355 Md. 356, 735 A.2d 491 (1999)
- E. *Charity v. State*, 132 Md. App. 598, 753 A.2d 556 (2000), *cert. denied*, 360 Md. 487, 759 A.2d 231 (2000)
- F. *Cartnail v. State*, 359 Md. 272, 753 A.2d 519 (2000)
- G. *Whiting v. State*, 125 Md. App. 404, 725 A.2d 623 (1999)
- H. *U.S. v. Armstrong*, 517 U.S. 456, 116 S.Ct. 1480 (1996)

(Issued May 21, 2001)

INTERVIEWS AND INTERROGATIONS

I. Purpose:

The purpose of this policy is to provide standards and general guidelines for law enforcement interviews and interrogations that are accurate, credible and professionally accomplished.

II. Policy:

- A. It is the policy of _____ that, the conduct of police interviews and interrogations should be fair, competent, and totally objective. It is extremely important that this practice should also be perceived as non-coercive and unbiased by the courts and the general public.
- B. It is the policy of _____ that, interviews and interrogations comply with all constitutional requirements, applicable state and local laws and strictly adhere to agency investigative procedures.
- C. It is the policy of _____ to accurately and completely record or otherwise document the conditions, content, and conclusions of any interview or interrogations. This agency acknowledges the advantages of electronic recording whenever investigative and environmental conditions allow.

III. Definitions:

- A. Interview: A purposeful and non-accusatory conversation with a victim, a complainant, a witness, or even a possible criminal suspect. The atmosphere is non-custodial and the interviewee should feel that he/she is free to end or terminate the interview and leave at any time.
- B. Interrogation: During an interrogation, the person being questioned by the police is not free to leave, and police questioning or conduct is specifically designed to elicit incriminating responses implicating the person in criminal activity. All custodial interrogations shall be preceded by issuance of the *Miranda* warning.
- C. Electronic Recording: The practice of audio recording and/or videotaping an interview or interrogation. It is a violation of Maryland law to audio-tape any conversation without the consent of all parties.
- D. Custody: A suspect is considered to be in custody if, under similar circumstances, a reasonable person in the suspect's position would feel that his/her liberty to move

about freely or leave was being restrained in any way.

IV. Guiding Principles - Interviews:

- A. Interviews are critical components of a police investigation. Most police interviews are conducted with victims, complainants and witnesses to a criminal act. Interviews may be conducted in the field, in police facilities, in vehicles, or in any other convenient location.
- B. Officers should give clear notification, followed by acknowledgment by the person being interviewed that the questioning is non-custodial and that the person being questioned is free to discontinue and leave at any time.
- C. A fact-finding interview of a possible criminal suspect is not an interrogation. Thus the *Miranda* warnings are not required.
- D. If, at any time during an interview, a person's responses incriminate, or tend to incriminate him/her in the commission of a crime, the questioning officer shall give the *Miranda* warnings before continuing the interrogation, regardless of whether the person has been arrested. The warnings indicate that the person is now a suspect and that he/she is not at liberty to leave.
- E. Whenever possible and practical, officers should prepare a typed (or written) statement of an interview and have it reviewed, acknowledged as accurate and signed by the interviewee.
- F. While electronic recording may be appropriate for interrogation of criminal suspects, non-custodial interviews of crime victims, witnesses and associated individuals may also be electronically recorded.
- G. Any interview that is electronically recorded must have the express consent of all parties. Persons being interviewed should sign a consent form.

V. Guiding Principles – Interrogations:

- A. Custodial interrogations of criminal suspects shall always be preceded by *Miranda* warnings, using the agency pre-printed form. If at any stage of the custodial questioning, the suspect indicates that s/he wants to stop talking or to consult with an attorney before continuing, the questioning shall stop.
- B. Interrogations should be pre-planned and investigating officers should have a clear understanding of the issues to be covered. This ordinarily includes an understanding of the evidence available, victim/witness accounts, offense elements, possible alibis and defenses, and applicable laws.

- C. Interrogations should, whenever possible, be conducted by two officers. Prior to the interrogation each officer should have a clear understanding of the respective roles each will perform.
- D. If a confession to a criminal act is obtained, officers should prepare a written statement to that effect and endeavor to have it reviewed, acknowledged as accurate, and signed by the suspect.
- E. Where practical and when available, consideration should be given to recording the entire interrogation on videotape. This consideration should be given regardless of whether the interrogation is conducted in the field or in a police facility.
- F. If the interrogation is to be electronically recorded, the suspect should first sign a consent form. Covert or surreptitious electronic audio recordings of interviews and interrogations are prohibited by Maryland law.
- G. Under no circumstances are interrogating officers allowed to utilize physical force or any physically inhumane or abusive coercion against a suspect to make him or her provide incriminating information. The use of physical force or employment of torture techniques or psychological coercion during an interrogation is unconstitutional.
- H. Officers have no authority to offer promises of leniency or special consideration as inducements for admissions or cooperation. This subtle form of coercion is prohibited.
- I. Information developed through interrogations and/or confessions should be corroborated to the fullest extent possible by information and evidence available through other investigative means.
- J. If there is more than one suspect, any incriminating statements or information supplied by one suspect against another must be independently substantiated.

VI. Special Cases – Juveniles:

- A. Juveniles have the same *Miranda* rights as adults. A juvenile suspect may waive *Miranda* and make a voluntary statement during a custodial interrogation, but whether the statement is voluntary depends on factors such as: age; experience; education; background; intelligence; capacity to understand his or her rights and the consequences of waiving them; and presence of a parent during the interrogation.
- B. Although police are not specifically required to tell a juvenile that he or she has a right to speak to his or her parents, it is advisable to do so. Parents' absence from the interrogation does not automatically invalidate the statement, but at least one

Maryland court has held that a 10-year old is entitled to parental guidance, unless the State could demonstrate he had the mental capacity to understand the significance of his *Miranda* rights and the consequences of waiving them.

- C. Interrogation of juveniles should be limited to a reasonable time-duration with opportunities for periodic rest breaks. The number of officers participating in the interrogation of a juvenile should be limited.

VII. Related Cases:

- A. *Fare v. Michael C.*, 442 U.S. 707, *reh'g den.*, 444 U.S. 887 (1979)
- B. *Johnson v. Zerbst*, 304 U.S. 458 (1938)
- C. *Lodowski v. State*, 307 Md. 233 (1986)
- D. *In re Lucas F.*, 68 Md.App. 97 (1986), *cert. den.* 307 Md. 433 (1986)
- E. *Miranda v. Arizona*, 384 U.S. 436 (1966)
- F. *Winder v. State*, 362 Md. 275 (2001)
- G. *Baynor v. State*, 355 Md. 726, 738 (1999)

(Issued November 18, 2002)

ETHICS IN LAW ENFORCEMENT

(Model Policy created by the Maryland Chiefs of Police Association and adopted on April 14, 2004)

I. Purpose:

The purpose of this policy is to outline the general parameters of ethical conduct that is expected of all sworn members of this agency, both on and off-duty.

II. Policy:

- A. It is the policy of _____, that sworn members will perform their professional duties competently and conscientiously in full accordance with the law as well as agency rules and regulations and agency values.
- B. It is the policy of _____, that sworn members, while on-duty, will uniformly treat private citizens in a civil and equitable manner, regardless of the circumstances of the sworn member-citizen contact or citizen's status.
- C. It is the policy of _____, that sworn members will conduct their off-duty personal lives in a mature, law-abiding and exemplary manner.
- D. The policy of _____, applies to **all sworn members**, including command members, and the agency chief executive.
- E. It is the policy of _____, that all sworn members will be guided by the provisions of the IACP law enforcement ethics statements which are contained as Appendices of this policy.

III. Definitions:

- A. **Corrupt Practices:** Conduct by sworn members that involves profiting from their misuse of authority of office, usually for personal gain for themselves or others, including bribery, extortion, fraud and perjury.
- B. **Gratuities:** Gifts, advantages or favors, solicited or unsolicited, by sworn members of any rank, from a citizen or other public official, that may tend to influence or compromise the member's duty performance, so that future considerations may be reasonably expected by the citizen-benefactor; a *quid-pro-quo* arrangement.

- C. Noble Cause Intent: The phenomenon of officers who engage in misconduct or commit a criminal act, in the belief that the end result will justify their actions.
- D. Malfeasance: The intentional commission of a prohibited act.
- E. Misfeasance: The improper performance of a required act.
- F. Nonfeasance: Failure to perform a required act.

IV. Guiding Principles:

- A. Sworn members are personally and professionally responsible for compliance with all laws and agency rules and regulations. They cannot consider themselves exempt from any law or regulation based on any situational basis, either work-related or off-duty.
- B. Sworn members cannot engage in any misconduct, either on or off-duty, that might discredit themselves or this agency. Police misconduct is impropriety in public office, either by commission or omission and is understood to include:
 - Malfeasance
 - Misfeasance
 - Nonfeasance.
- C. Sworn members are responsible for their actions, both on and off-duty, and they are required to fully cooperate with any official inquiry into their work performance and behavior.
- D. Sworn members shall treat other agency members, both sworn and civilian, in a civil, professional and collegial manner. Harassment and discrimination, either in or out of the workplace, directed at either coworkers or private citizens, is expressly prohibited.
- E. Sworn members shall not accept gratuities. This proscription applies to all sworn ranks and positions—No exceptions.
- F. All sworn members, particularly those in command positions, must avoid any possible conflicts of interest which might discredit themselves or this agency.
- G. Corrupt practices, regardless of any presumed “noble cause intent,” will not be tolerated on the part of any sworn member.
- H. Sworn members can use any reasonable means to protect themselves or to effect compliance with a lawful enforcement action. Excessive use of force is strictly prohibited.

- I. Sworn members shall be constantly cognizant of the unique role that discretion plays in their authority as law enforcement officers, along with its corollary of confidentiality with regard to both agency matters and the public's right to privacy.
- J. Although this policy was primarily created for sworn members, it is also applicable to civilian employees as well.

V. Relevant Law:

- A. Maryland Public Ethics Law, Annotated Code of Maryland, State Government Article §15-101, *et seq.*
- B. Maryland Law Enforcement Officers' Bill of Rights (LEOBR), Public Safety Article. §3-101, *et seq.*

VI. Appendices:

- Appendix A - IACP Law Enforcement Oath of Honor
- Appendix B - IACP Law Enforcement Code of Ethics
- Appendix C - IACP Law Enforcement Code of Conduct

Appendix A

Law Enforcement Oath of Honor

*On my honor, I will never
betray my badge, my integrity,
my character or the public trust*

*I will always have the courage to hold
myself and others accountable for our actions.*

*I will always uphold the
constitution, my community, and the
agency I serve.*

Source: International Association of Chiefs of Police

Appendix B

Law Enforcement Code of Ethics

As a law enforcement officer, my fundamental duty is to serve the community, to safeguard lives and property, to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder, and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession ... law enforcement.

Source: International Association of Chiefs of Police

Appendix C

Law Enforcement Code of Conduct

Primary Responsibilities of a Police Officer

A police officer acts as an official representative of government who is required and trusted to work within the law. The officer's powers and duties are conferred by statute. The fundamental duties of a police officer include serving the community, safeguarding lives and property, protecting the innocent, keeping the peace and ensuring the rights of all to liberty, equality and justice.

Performance of the Duties of a Police Officer

A police officer shall perform all duties impartially, without favor or affection or ill will and without regard to status, sex, race, religion, political belief or aspiration. All citizens will be treated equally with courtesy, consideration and dignity.

Officers will never allow personal feelings, animosities or friendships to influence official conduct. Laws will be enforced appropriately and courteously and in carrying out their responsibilities, officers will strive to obtain maximum cooperation from the public. They will conduct themselves in appearance and deportment in such a manner as to inspire confidence and respect for the position of public trust they hold.

Discretion

A police officer will use responsibly the discretion vested in his position and exercise it within the law. The principle of reasonableness will guide the officer's determinations, and the officer will consider all surrounding circumstances in determining whether any legal action shall be taken.

Consistent and wise use of discretion, based on professional policing competence, will do much to preserve good relationships and retain the confidence of the public. There can be difficulty in choosing between conflicting courses of action. It is important to remember that a timely word of advice rather than arrest-which may be correct in appropriate circumstances-can be a more effective means of achieving a desired end.

Use of Force

A police officer will never employ unnecessary force or violence and will use only such force in the discharge of duty as is reasonable in all circumstances.

The use of force should be used only with the greatest restraint and only after discussion, negotiation and persuasion have been found to be inappropriate or ineffective. While the use of force is occasionally unavoidable, every police officer will refrain from unnecessary infliction of pain or suffering and will never engage in cruel, degrading or inhuman treatment of any person.

Confidentiality

Whatever a police officer sees, hears or learns of that is of a confidential nature

will be kept secret unless the performance of duty or legal provision requires otherwise. Members of the public have a right to security and privacy, and information obtained about them must not be improperly divulged.

Integrity

A police officer will not engage in acts of corruption or bribery, nor will an officer condone such acts by other police officers.

The public demands that the integrity of police officers be above reproach. Police officers must, therefore, avoid any conduct that might compromise integrity and thus undercut the public confidence in a law enforcement agency. Officers will refuse to accept any gifts, presents, subscriptions, favors, gratuities or promises that could be interpreted as seeking to cause the officer to refrain from performing official responsibilities honestly and within the law. Police officers must not receive private or special advantage from their official status. Respect from the public cannot be bought, it can only be earned and cultivated.

Cooperation with Other Police Officers and Agencies

Police officers will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

An officer or agency may be one among many organizations that may provide law enforcement services to a jurisdiction. It is imperative that a police officer assist colleagues fully and completely with respect and consideration at all times.

Personal-Professional Capabilities

Police officers will be responsible for their own standard of professional performance and will take every reasonable opportunity to enhance and improve their level of knowledge and competence.

Through study and experience, a police officer can acquire the high level of knowledge and competence that is essential for the efficient and effective performance of duty. The acquisition of knowledge is a never-ending process of personal and professional development that should be pursued constantly.

Private Life

Police officers will behave in a manner that does not bring discredit to their agencies or themselves.

A police officer's character and conduct while off duty must always be exemplary, thus maintaining a position of respect in the community in which he or she lives and serves. The officer's personal behavior must be beyond reproach.

Source: International Association of Chiefs of Police

DOMESTIC VIOLENCE BY LAW ENFORCEMENT OFFICER

I. Purpose:

The purpose of this model policy is to establish enforcement and operational guidelines for investigating and handling incidents of suspected or alleged domestic violence when the primary aggressor is a sworn law enforcement officer.

II. Policy:

- A. It is the policy of _____, that whenever a member of this agency learns of an incident of domestic violence, either alleged or proven, by any sworn law enforcement officer, the matter shall be reported, investigated and handled no differently than if the officer were a civilian.
- B. It shall be the policy of _____, that if a sworn member of this or any other law enforcement agency is suspected to be the primary aggressor in a domestic violence incident, the investigating officer will notify a supervisory officer who will immediately respond to the scene.
- C. It is the policy of _____, that after a comprehensive preliminary investigation at the scene of the alleged domestic violence incident, if the investigating supervisor has **probable cause** to believe that the involved officer was the primary aggressor in a domestic violence incident, the preferred enforcement response is a physical arrest of the officer, regardless of rank or position, or obtaining an arrest warrant if the officer has left the scene
- D. It is the policy of _____, that following an arrest of an officer for domestic violence, his or her issue and off-duty handgun (if any) will be seized, along with any other firearm(s) in proximity to the crime scene.
- E. It is the policy of _____, that the arrested officer will be suspended by the investigating supervisory officer and the officer's badge, MPTC certification card and agency ID card will be collected.
- F. It is the policy of _____, that if the officer is a member of this agency, the investigating supervisor will notify the Internal Affairs Unit or an officer who is designated to conduct an internal investigation.

G. It is the policy of _____, that whenever a police officer-involved domestic violence call does not result in an arrest, the investigating supervisory officer shall submit a written report explaining why no arrest was effected or why an arrest warrant was not obtained.

III. Definitions:

- A. Preferred Arrest Policy: Whenever the law permits, officers should effect a warrant-less arrest of the assailant when there is probable cause to believe that a domestic violence incident has occurred.
- B. Primary Aggressor: This is the individual suspected of being the most culpable in a domestic violence situation which is being investigated, or the individual who officers suspect did not act in self-defense where there was a mutual battery. Officers should make a primary aggressor determination in domestic violence situations as an alternative to arbitrarily arresting both parties.
- C. Probable Cause: Reasonable ground for belief of guilt based on the totality of the circumstances; less evidence than necessary to sustain a conviction, but more evidence than would merely arouse suspicion.
- D. Protective Orders and Peace Orders: Protective orders generally apply to family members who are victims and abusers. Peace orders are for victims who are not family-related, such as people in a dating relationship. It is unlawful for any person to possess or receive any firearm if that person is subject to a protective order.

V. Guiding Principles:

- A. When the involved officer is from another jurisdiction, the on-scene officers and supervisor shall follow the same procedures required for this agency. A supervisor from the officer's agency shall be notified and requested to respond to the scene.
- B. If the involved officer has left the scene, the on-scene supervisor shall make arrangements for application of an arrest warrant, if probable cause exists.

Commentary: Federal and state law prohibit possession of a firearm by the subject of a non ex parte domestic violence protective order during the life of the order, but provide an exception permitting law enforcement officers to possess firearms while on-duty. Agencies should consult with legal counsel about liability issues associated with issuing firearms to officers who are subject to an active protective order. Federal law prohibits possession of a firearm after conviction of a crime of domestic violence, if the conviction meets certain criteria. No Exceptions.

- C. If the involved officer is a member of this agency's command staff, the on-scene supervisor shall immediately notify the Chief Executive. If the Chief Executive is the

involved officer, the on-scene supervisor shall immediately notify the government official who has direct oversight for the Chief Executive.

- D. If both parties in the incident are police officers, the inquiry should focus on identifying the primary aggressor and determining probable cause.
- E. The investigation should include determining if any protective or peace orders are in force concerning the involved officer, the violation of which could result in additional criminal charges.
- F. The Commanding Officer of the involved officer will make arrangements to liaison with the victim and ensure that all available victim assistance services are explained.
- G. The Commanding Officer will also designate a supervisor to be the agency's principal contact person for the victim.
- H. Command will conduct an in-depth assessment of the incident to assess the involved officer for appropriate possible remedial referrals, duty assignments and/or administrative actions.
- I. If the involved officer is subject to both a criminal and an administrative investigation, the inquiries should be kept strictly separate, and preferably conducted by different individuals.
- J. All personnel involved in the investigation of officer-involved domestic violence should be instructed to only exchange information on a strict need-to-know basis.

VI. Relevant Law:

- A. Family Law Art. §4-501-515 (Domestic Violence: Definitions; General Provisions, including Protective Orders)
- B. Criminal Procedure Art. §2-202-208 (Arrests Without Warrants for Domestic Violence, Generally)
- C. Court and Judicial Proceedings Art. §3-1501-1509 (Peace Orders)
- D. State v. Wallace, 372 Md. 137, 148, 812 A.2d 291, 297-298 (2002) (Probable Cause)
- E. 18 U.S.C. §922 (g)(8) (Prohibition possessing firearm while subject to a qualifying protective order)
- F. 18 U.S.C. §922 (g)(9) (Prohibiting all possession of firearms after Domestic Violence conviction)

- G. 18 U.S.C. §922 (a)(1) ('performance of official duties,' exception to §922 (g)(8))
- H. Public Safety Art., §5-133(b)(8) (state law prohibition against possessing firearms while subject to non ex parte protective order)
- I. Public Safety Art., §5-102(4) (exception to Public Safety Art., §5-133(b)(8) for law enforcement personnel acting within the scope of official duties)

THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS): A FORMAL RECOGNITION

I. Purpose:

The purpose of this model policy is to outline and explain NIMS and its interrelationship with the established Incident Command System (ICS). Federal law mandates that all U.S. law enforcement agencies comply with NIMS national homeland security policies, procedures and protocols.

By the end of fiscal year 2006, federal funding for state, local and tribal law enforcement preparedness grants will depend upon compliance with NIMS.

II. Background:

NIMS has been endorsed by the U.S. Department of Homeland Security and officially implemented by Presidential Directive on 1 March 2004. NIMS is designed to enable local law enforcement to respond to critical emergency incidents, not necessarily limited to terrorist events, in a standardized manner, in close cooperation with other emergency service and public safety providers.

NIMS represents a core set of doctrine, principles, terminology and organizational processes to enable effective, efficient, and collaborative incident management at all levels. ³

ICS was developed in 1970 in California as an emergency management tool in coordinating fire service response to a devastating wildfire. It has since evolved into the prototype of a public safety process to coordinate incident management for a wide range of disasters and catastrophic events.

NIMS was subsequently adopted in Maryland by an Executive Order of Governor Robert L. Ehrlich, Jr., which mandated that NIMS was the State standard for incident management and that all state governmental agencies must adopt this system for command and control of emergency incidents in cooperation with local jurisdictional response partners

³ Gil Jamieson, "NIMS and the Incident Command System," *The Police Chief*, Feb. 2005, p. 68.

III. Policy:

- A. It is the policy of _____, that all members will cooperate fully with NIMS and ICS doctrine and procedures that are compliant with law and agency procedures.
- B. It is the policy of _____, that all members will participate in the recommended ICS training programs developed and coordinated by the Federal Emergency Management Agency (FEMA).
- C. It is the policy of _____, that all members will cooperate fully with designated public safety emergency responders in all strategic and tactical operations, including training.

IV. Definitions:

- A. NIMS Integration Center (NIC): Situated at the U.S. Department of Homeland Security's FEMA, located at Emmitsburg, Maryland. The center provides strategic direction and oversight for NIMS.
- B. NIMS Implementation Plan: For fiscal year 2005, a federal template that can be used for local planning and compliance purposes. It consists of four distinct phases: 4
 - Initial staff training, including completion of FEMA's independent NIMS and ICS study courses;
 - Formal recognition and endorsement of NIMS ICS;
 - Evaluation of plans, policies and procedures that require conformance to NIMS doctrine;
 - Actual modification of emergency responses strategies and tactics to comply with NIMS standards; and
- C. ICS Training: FEMA training courses, which include Introduction, Basic, Intermediate, and Advanced ICS.
- D. ICS Organization: Five major functions: Command, operations, planning, logistics, and finance & administration. In NIMS ICS, an intelligence function can be established for gathering, analysis and sharing of incident-related information.

V. Relevant Law:

4 Ibid, P. 69.

Homeland Security Presidential Directive-5: Initiated by President Bush to require the Secretary of Homeland Security to develop a national management system to provide a consistent nationwide approach for federal, state, tribal and local governments to work together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size or complexity.

Executive Order 01.01.2005.09: Issued by Maryland Governor Robert L. Ehrlich, Jr., which directed that NIMS is the standard for critical incident management in Maryland and that all State agencies must use this system for command and control of emergency incidents in cooperation with local jurisdictional response partners.

VI. Internet Sources:

NIMS Web Page: www.fema.gov/nims.

EYEWITNESS IDENTIFICATION

I. Purpose:

The purpose of this policy is to establish guidelines for obtaining accurate eyewitness identification, consistent with the Annotated Code of Maryland, Public Safety Article, Section 3-505.

II. Introduction:

Eyewitness identification is one of many tools used by law enforcement in the investigation of crime. This investigative tool is vigorously challenged by defense attorneys. Therefore, it is critical that eyewitness identification be conducted in a professional, structured manner, and supported by written documentation and physical evidence. It is also important to point out that the responding officer may not be the first person to interview a witness. Reporting persons are witnesses, and they may have been interviewed once (albeit briefly) by a dispatcher or call taker. Those personnel should also be familiar with this policy to ensure that as much accurate information as possible is gathered during the initial report.

III. Policy:

- A. It is the policy of _____ to avoid any action that would be unduly suggestive during any eyewitness identification process.
- B. It is the policy of _____ that all eyewitness identification be conducted in a structured, professional manner designed to clear the innocent as well as identify suspects in criminal offenses.
- C. It is the policy of _____ that a criminal investigation will not be concluded or otherwise cease based solely on eyewitness identification. Investigations will continue until all physical evidence has been collected and examined, all witnesses identified, and all reasonable leads explored.
- D. It is the policy of _____ that a witness will participate in one and only one type of eyewitness identification. The types of eyewitness identification are:

Commentary: *The 2007 Maryland General Assembly passed House Bill 103, which added §3-505 to the Public Safety Article of the Annotated Code of Maryland. Section 3-505(a) requires each law enforcement agency in the State to adopt written policies relating to eyewitness identification "that comply with the United States Department of Justice Standards on obtaining accurate eyewitness identification." Although there are apparently no DOJ "standards," the DOJ in 1999 published a research report called "Eyewitness Evidence: A Guide for Law Enforcement". This report is identified in the Fiscal Note for House Bill 103, and serves as the basis for this*

1. Viewing a Mug Book
 2. Participating in the preparation of Composite
 3. Participating in a Show Up
 4. Participating in a Live Line Up
 5. Viewing a Photo Line Up
- E. It is the policy of _____ that any identification or non-identification, of a suspect be documented in writing, along with any comments by the eyewitness concerning the identification or non-identification.
- F. It is the policy of _____ that any photograph of an individual identified by an eyewitness be retained as evidence and handled as such.

IV. Definitions:

- A. MUG BOOK: A collection of photographs of previously arrested individuals known or suspected to be involved in certain type crimes. Mug Books are frequently used when there is no clear suspect and other reliable sources have been exhausted.
- B. COMPOSITE: Renderings or recollections of a witness describing a suspect's appearance. Composites may be completed by an artist, computer program, or Identi-Kit which features a variety of different facial features.
- C. SHOW-UP: The display of a single suspect to a witness in an effort to obtain an identification.
- D. PHOTO LINE UP: A display of a photograph of the suspect, along with filler photos of other individuals whose physical characteristics resemble the suspect's description or appearance at the time of the incident.
- E. LIVE LINE UP: A live display of the suspect, along with other individuals whose physical characteristics resemble the suspect's description or

Commentary: *The DOJ report, "Eyewitness Evidence: A Guide for Law Enforcement", contains five sections: Initial Report of the Crime/First Responder; Mug Books and Composites; Procedures for Interviewing the Witness by the Follow-up Investigator; Field Identification Procedure; and Procedures for Eyewitness Identification of Suspects. The report may be helpful to law enforcement agencies because it provides suggested guidelines and procedures in much more detail than permitted by the space limitations of this Model Policy. The report may be accessed at: www.ncjrs.gov/pdffiles1/nij/178240.pdf.*

appearance at the time of the incident.

V. Relevant Law: Annotated Code of Maryland, Public Safety Article, § 3-505