

Policy 804



AMENDMENT PROTECTED ACTIVITY

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DRAFT 25 June 2018

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By Order of the Police Commissioner

PURPOSE

The purpose of this policy is to ensure that BPD members protect the rights guaranteed by the First Amendment to the United States Constitution, including the rights to freedom of speech and expression, freedom of assembly, and freedom to observe and record the actions of law enforcement officers. The exercise of First Amendment rights promotes the free exchange of ideas, which is fundamental to democratic governance. The preservation and protection of First Amendment rights foster transparency and accountability in government functions, including police functions, which are vital to maintaining public trust in the rule of law.

POLICY

BPD members shall respect and protect the First Amendment rights of all persons. The First Amendment protects:

1. **The right to free speech and expression**, which includes the right to criticize law enforcement or otherwise engage in protected expression in the presence of law enforcement officers without being subject to retaliation.
2. **The right to freely organize and participate in lawful assemblies and protests** in parks, on sidewalks, in streets, and in other public forums, including public forums near the object of the assembly or protest so that those assembled may be seen and heard.
3. **The right to observe and record the actions of law enforcement officers** in the public discharge or their duties in all public spaces (including sidewalks, parks, and other locations for lawful public protest), as well as all other areas in which persons have a legal right to be present (including a person's home or business and common areas of public and private facilities and buildings), without being subject to retaliation.

DEFINITIONS

Civil Disturbance/Unrest — A breach of the peace by a gathering of persons where there is a threat of collective violence, destruction of property, or other unlawful acts. Such a gathering may also be referred to as a riot or unlawful assembly.

Counter-Protestor — A participant in a protest that opposes an existing protest.

First Amendment Assembly/Demonstration — An assembly of persons engaging in First Amendment protected activity. These may be scheduled events that allow for law enforcement planning, but also may include spontaneous gatherings. They include, but are not limited to, marches, protests, and other assemblies.

Incident Action Plan (IAP) — An oral or written plan containing general objectives reflecting the overall strategy for managing an incident.

Incident Commander (IC) — The person responsible for overseeing the response to First Amendment Assemblies or Demonstrations and Civil Disturbances, including the development of strategies and tactics and the ordering and release of resources. If no IC has been designated, the most senior ranked member on scene shall act as the IC, until relieved.

Inciting Imminent Unlawful Action — Urging other persons to engage in criminal activity that will occur immediately. Inciting Imminent Unlawful Action does not include urging others to engage in criminal activity that might occur at some point in the future; it only includes urging criminal activity that is about to happen.

Safety Officer — A member designated by command staff responsible for monitoring incident operations and advising the IC on all matters relating to operational safety, including the health and safety of emergency responder personnel.

True Threats — Statements that threaten or intimidate, when the speaker communicates a serious intent to commit an act of unlawful violence or harm to a particular person or group of persons and those persons are aware of or are present to observe the communication.

DIRECTIVES

Protecting the Exercise of the Rights to Free Speech and Assembly

Required Actions Regarding Speech and Assembly

1. BPD members shall allow persons to speak and express themselves freely, including by using criticism, insults, profanity, name calling or obscene gestures directed at law enforcement or by expressing disagreement.
2. BPD members shall allow all persons to gather at or near the object of the assembly or protest and shall allow persons to assemble on sidewalks and streets and in parks and other public spaces, so that they may be seen and heard.
3. BPD members shall make all reasonable efforts to protect protestors and preserve their right to protest.
4. BPD members shall enforce restrictions on the time, place, and manner of an assembly or protest only for the purpose of maintaining public safety and shall restrict no more speech than is necessary to further this purpose.

5. BPD members shall make every effort to separate protestors and Counter-Protestors to maintain order and avoid any potential confrontation.
6. For any event for which there is an IAP, BPD members shall adhere to the IAP, including enforcing reasonable time, place, and manner restrictions in the IAP, unless otherwise directed by supervisors.
7. BPD members shall adhere to the following policies: Policy 414, *Less-Lethal Munitions and Chemical Agents*, Policy 1115, *Use of Force*, and Policy 1118, *Oleoresin Capsicum Spray* when confronting First Amendment Assemblies that have become Civil Disturbances.
8. In order to de-escalate the potential for disorder and avoid mass arrests, BPD members shall endeavor to accommodate assemblies and protests that may temporarily block traffic or otherwise obstruct public streets by regulating or rerouting traffic as much as practical.

Prohibited Actions Regarding Speech and Assembly

1. BPD members shall not restrict the rights of any person to criticize law enforcement through speech, unless the person is endangering a BPD member or another person, or is physically interfering with law enforcement action.
2. BPD members shall not take any action in retaliation against any person who exercises their First Amendment rights to comment on or protest any police activity. This includes retaliation by ordering persons or groups to disperse, or by stopping, detaining, searching, arresting, issuing a citation to, or threatening to stop, detain, search, arrest or issue a citation to any person or group.
3. BPD members shall not conduct activity beyond the IAP without supervisory approval unless criminal activity is identified.
4. BPD members shall not use force in response to a person engaging in legally protected speech or a lawful assembly unless the person poses an imminent threat to the safety of a BPD member or others.
5. BPD members shall not engage in intimidation or harassment toward persons participating in assemblies or protests. Such prohibited intimidation and harassment include, but are not limited to, verbal threats and profanity, use of video recorders to harass, and displaying a weapon for the purpose of intimidation.
6. BPD members shall not arrest a person engaged in First Amendment activity unless there is *individualized* probable cause to believe that the person has committed a crime. This means that a BPD member may not arrest any person unless the member has sufficient objective facts based on the member's own knowledge, or reliable and trustworthy information provided by other members or third parties, to establish probable cause that the person committed a crime. BPD members may not arrest any person engaged in First Amendment activity based on the fact that other persons engaged in the same First Amendment activity also engage in violent or otherwise unlawful conduct.

EXAMPLE: A group of 300 persons march together in the streets and on the sidewalks engaged in political protest. Five persons break from the group, smash several storefront windows, and then rejoin the group. BPD members may identify and arrest the five persons who smashed windows based on their personal conduct. BPD members may not arrest others in the group based on their association with the five persons who broke the window, because there is no *individualized* probable cause that the other members of the group committed a crime or did anything other than engage in First Amendment protected activity.

7. BPD members may not interrupt a speaker, except in the following limited circumstances:

7.1. *Speech Incites Imminent Unlawful Action:* BPD members may interrupt speech when the speech incites imminent unlawful action. Members may only take action when a statement:

7.1.1. Threatens or encourages imminent unlawful violent action or destruction of property; and

7.1.2. Has a substantial likelihood of producing imminent unlawful violent action or destruction of property; and

7.1.3. Is intentionally stated by the speaker to clearly and objectively direct at least one other person to engage in imminent unlawful violent action.

NOTE: The mere advocacy of the use of force or violence sometime in the future is still constitutionally protected under the First Amendment, and the person speaking cannot be arrested simply because he or she advocates for violence sometime in the future.

EXAMPLE: During a demonstration, the crowd moved into the street, disrupting traffic. The police successfully directed the protesters out of the street and back onto the curb, when a person yelled "We'll take the street later!" or "We'll take the street again!" The person may *not* be detained or arrested for his statements.

7.2. *There is a Risk that the Speech Will Provoke an Audience into Using Illegal Force against the Speaker:* BPD members may interrupt speech when it provokes violence or threats of imminent violence against the speaker after BPD has attempted to control the crowd and made a reasonable effort to protect the speaker.

NOTE: BPD members shall use all lawful efforts to control the crowd before interrupting the speaker.

EXAMPLE: Demonstrators march through the city until they are met by a growing number of onlookers with an opposing viewpoint. The onlookers become increasingly unruly and tension rises between the two groups. The law requires that BPD members must first attempt to manage the unruly onlookers before ordering any demonstrators to disperse. Even if BPD members have difficulty controlling the unruly onlookers, they may not arrest anyone who is lawfully exercising their First Amendment rights; they may only arrest those who are violating the law.

7.3. *True Threats:* BPD members may interrupt a speaker who makes True Threats of

imminent violence that would result in harm to a person or substantial harm to the property of another person.

NOTE: Only the highest ranking member on the scene may interrupt or restrict speech for the above-mentioned reasons (7.1-7.3). If the highest ranking member *does* interrupt or restrict speech, they shall do so using the least restrictive means possible and only after all other alternatives to interruption or restriction are exhausted.

8. BPD members shall not terminate or disperse any protest or assembly unless the protest or assembly has turned into a Civil Disturbance or threatens to turn imminently into a Civil Disturbance, and a dispersal order has been given pursuant to Rule 413 (Mobile Field Force).
 - 8.1. Only a BPD command member ranked Major or above may declare an assembly unlawful. If no commander of the rank Major or above is available, the declaration may be made by a Lieutenant or Captain who is serving as the Shift Commander or District Commander. Any declaration that an assembly is unlawful must be subsequently documented in writing.

NOTE: The highest ranking member at the scene will always assume the role of Incident Commander until relieved by a superior commander or other person designated as Incident Commander based on the nature of the incident.

- 8.2. An assembly shall not be deemed unlawful unless the BPD command member deeming it unlawful determines that there is a threat to public safety (e.g., collective violence, destruction of property, or other injury).

- 8.2.1. The failure to obtain a permit is not a sufficient basis to declare an assembly unlawful.

- 8.2.2. The fact that some of the persons involved in an assembly or protest have engaged in unlawful acts on prior occasions is not a valid basis for declaring an assembly unlawful.

NOTE: The decision to declare an assembly unlawful will be rare. It requires clear justification and extensive documentation detailing the facts that lead to the decision. The report documenting the reasons for declaring an assembly unlawful will include BWC footage from members at the scene.

- 8.3. Orders to disperse may not be issued except following a declaration that an assembly is unlawful. Orders to disperse may only be made by a Lieutenant or above, following receipt of a declaration that an assembly is unlawful. Any order to disperse must be subsequently documented in writing.
 - 8.3.1. Absent exigent circumstances, orders to disperse shall not be issued until after BPD has attempted to communicate with the leaders, organizers, or other participants in the protest or demonstration and resolve the situation so that the unlawful activity decreases and the First Amendment Assembly or Demonstration can continue.

- 8.3.2. If a crowd disperses following a declaration of unlawful assembly and reconvenes at a different location where the participants engage in a lawful First Amendment Assembly or Demonstration, no order to disperse shall be issued unless it is established that the assembly is unlawful and adequate warnings are rendered per Policy 413, *Mobile Field Force*.
- 8.4. BPD members must obtain supervisory approval, to be documented as soon as practicable, before issuing any citations or making arrests related to a refusal to obey a dispersal order or related to any other public protest activities, unless those activities pose a threat of imminent harm to persons or property and violate a state or local law.
- 8.5. The supervisor also must be present to approve an arrest for refusal to obey a dispersal order during a public protest prior to the arrestee's transport to a holding facility, absent exigent circumstances to be documented as soon as practicable.
- 8.6. In dispersing a public assembly, BPD members shall adhere to the following policies: Policy 414, *Less-Lethal Munitions and Chemical Agents*, Policy 1115, *Use of Force*, and Policy 1118, *Oleoresin Capsicum Spray*.
9. BPD members shall not substantially surround or enclose persons participating in or observing an assembly or protest and prevent them from leaving the area unless warnings to disperse have been given and the persons have been provided an opportunity to disperse in accordance with Policy 413, *Mobile Field Force*.
- EXAMPLE:** A group of persons gathered in a public park is ordered to disperse and exit the park. The persons promptly attempt to comply with the order by walking down an alley that intersects the park. BPD members may not form lines at the beginning and end of the alley and close off all exit routes. BPD members may not arrest everyone thus gathered within the alley that intersects the park.
10. BPD members shall not treat protesters differently based on the content or viewpoint of their legally protected speech, nor based on the race, national origin, gender identity, gender expression, disability or illness (physical or mental), sexual orientation, religion, political ideology or affiliation, social status, veteran status, economic status, familial status, HIV status, immigration status, homelessness, language ability, age, or any other protected class under state, federal, and local laws. See Policy 317, *Fair and Impartial Policing*.
11. BPD members shall not target the leaders or organizers of an assembly or protest by singling out such persons for harsher treatment. BPD members shall not single out persons for video recording solely because the persons appear to be the leaders or organizers of an assembly or protest. This does not prevent a member from taking enforcement actions in the event that the member has probable cause to believe that a person, whether a leader/organizer or not, is inciting violence or has committed a crime.
12. BPD members shall not allow personal beliefs and opinions to interfere with their duties as a law enforcement officer.

13. BPD members shall not express personal, political, or religious views during a public assembly while on duty.

Coordinated Response to Protests and Assemblies

Preparation for Protests and Assemblies

1. Incident Action Plans (IAPs) direct and coordinate response operations. An IAP shall be developed by the IC or designee prior to all known significant pre-planned or anticipated public protests or assemblies (more than 50 anticipated participants). This allows for a clear mode of communicating the overall incident objectives in the context of operational and support activities.
2. As outlined in the Incident Command System, all IAPs must answer the following four questions:
 - 2.1. What do we want to do?
 - 2.2. Who is responsible for doing it?
 - 2.3. How do we communicate with each other?
 - 2.4. What is the procedure if someone is injured?
3. The IAP developed for significant pre-planned or anticipated public protests or assemblies shall include the following details:
 - 3.1. An effective traffic control plan for streets and sidewalks;
 - 3.2. A protocol for the role of Safety Officer, which shall include:
 - 3.2.1. Health and safety guidance during pre-deployment briefings;
 - 3.2.2. Ensuring the availability of mental health and medical professional(s) to provide health care to members;
 - 3.2.3. Ensuring the close monitoring and periodic affirmative checks of members' well-being by supervisors;
 - 3.2.4. Close monitoring of member fatigue and indications of stressors; and
 - 3.2.5. During prolonged periods of demonstrations or unrest, the deployment of police counselors or psychologists to provide individual counseling to members and their family members.
 - 3.3. To the extent possible, a plan for public information sharing before, during and after significant public assemblies.

Cooperation with Persons Seeking to Exercise Their First Amendment Rights

1. In anticipation of a First Amendment Assembly or Demonstration, BPD will strive to establish contact and communication with the organizers or leaders of the assembly or protest. BPD

recognizes that the involvement of all stakeholders is critical to upholding First Amendment rights while promoting public safety.

2. If BPD becomes aware that a First Amendment Assembly or Demonstration is or will be occurring, BPD members shall make reasonable attempts to establish communication and cooperate with the organizers of the assembly or protest, regardless of whether a permit has been applied for or issued.
3. The commanding officer responsible for monitoring a First Amendment Assembly (the IC, if an IC has already been designated) will consult stakeholders when planning for and responding to First Amendment Assemblies and Demonstrations. Upon establishing contact, the commanding officer responsible for monitoring a First Amendment Assembly (or his or her designee) shall request that the organizers or leaders of the assembly or demonstration designate a primary police liaison and that the primary police liaison maintain continuous contact with the commanding officer (or his or her designee).
 - 3.1. Whether or not a group responds to BPD's attempts to establish communication before an assembly or protest, BPD shall attempt to identify a primary police liaison for the assembly or demonstration and foster cooperation with the group as early as possible during the assembly or protest. Further, no retaliatory action will be taken against a group for failure to designate a primary police liaison or communicate with BPD.
 - 3.2. The assigned BPD member should continue to communicate with the primary police liaison throughout the duration of an assembly or demonstration, even if BPD ultimately begins to effect arrests or take other enforcement measures.

Mobile Field Force

1. BPD maintains a specially-trained and equipped Mobile Field Force (MFF) that is utilized for large events, both pre-planned events and spontaneous events. See Policy 413, *Mobile Field Force*. The MFF serves several functions, including:
 - 1.1. Ensuring the safety of event participants, observers and bystanders;
 - 1.2. Ensuring the respect and protection of First Amendment rights;
 - 1.3. Assisting in managing Civil Disturbances/Unrest in the rare event that a breach of the peace occurs.
2. The Special Operations Division Commander or designee has the authority to deploy the MFF for pre-planned events.
3. In the event that a spontaneous assembly or protest occurs, the District Commander will contact the Special Operations Division Commander or designee to request the deployment of the MFF.
4. Upon deployment of the MFF, the IC has control and command of the MFF's efforts.

5. Members of the MFF must follow the guidelines outlined in any Standard Operating Procedures for the MFF and Policy 413, *Mobile Field Force*, as well as the directives in this policy, including but not limited to the following:
 - 5.1. MFF members shall engage in de-escalation techniques if specific persons or a group becomes hostile or threatens imminent unlawful violent action or destruction of property.
 - 5.2. MFF members shall utilize crowd management tactics, if necessary, to facilitate safe environments for public speech or as a response to Civil Disturbances/Unrest.

Protecting the Right to Observe and Record Officer Conduct

1. BPD members shall respect, and shall not infringe, the right of all persons to observe and record the actions of law enforcement officers in the public discharge or their duties in all public spaces (including sidewalks, parks, and other locations for lawful public protest), as well as in all other areas in which persons have a legal right to be present (including a person's home or business and common areas of public and private facilities and buildings), so long as the observation or recording does not threaten the safety of any BPD member or any other person and does not physically interfere with the performance of any BPD member's duties.
2. See Policy 1016, *Public Observation/Recording of Officers*, for complete guidance on how to address the public's observation and recording of police actions.

Training, Compliance and Assessment

1. Each BPD member shall receive training consistent with this policy. Such training shall include periodic instruction regarding the key requirements of the policy. Evidence of each BPD member's training – including the member's attendance, dates of training, and test scores or other proof that the member successfully completed the training – shall be documented by the Education and Training Academy.
2. Annual assessments shall be conducted of the BPD's practices related to First Amendment protected activities. These will include:
 - 2.1. A review and analysis of complaints alleging misconduct related to First Amendment protected activity;
 - 2.2. An analysis of law enforcement responses to public protest or assembly; and
 - 2.3. Identifying deficiencies and opportunities for improvement.
3. As a part of the assessment process, BPD will implement any appropriate corrective actions or improvement measures identified and will document measures taken.

ASSOCIATED POLICIES

Policy 317, *Fair and Impartial Policing*
Policy 413, *Mobile Field Force*
Policy 414, *Less-Lethal Munitions and Chemical Agents*
Policy 1016, *Public Observation/Recording of Officers*
Policy 1115, *Use of Force*
Policy 1118, *Oleoresin Capsicum Spray*

RESCISSION

Remove and destroy/recycle Policy 804, *First Amendment Protected Activity*, dated 1 July 2016.

COMMUNICATION OF POLICY

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



Policy 317

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FAIR AND IMPARTIAL POLICING.	
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By Order of the Police Commissioner

PURPOSE

The purpose of this policy is to reaffirm the ongoing commitment of the Baltimore Police Department (BPD) to fair, respectful, impartial, and non-Discriminatory Policing. Non-Discriminatory Policing is essential to the integrity and legitimacy of BPD's law enforcement mission, and to the partnerships BPD must establish and maintain with members of the community to engage in effective community policing. By contrast, Discriminatory Policing is illegal, alienates community members, fosters community distrust, perpetuates false and harmful stereotypes, and undermines effective law enforcement.

The Fourteenth Amendment to the United States Constitution, Article 24 of the Maryland Declaration of Rights, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131-12134, the Omnibus Crime Control and Safe Streets Act of 1968, 34 U.S.C. § 10101 *et seq.*, and Md. Code Ann., Crim. Proc. § 4-101.1 prohibit Discriminatory Policing.

POLICY

The policy of the BPD is to treat all members of the public in a fair, respectful, impartial, and non-discriminatory manner. Discriminatory Policing, as defined below, is prohibited.

DEFINITIONS

Arrest — The taking of a person into custody by a BPD member, requiring probable cause that a crime was committed, is being committed, or is about to be committed.

Discriminatory Policing — Practices and policies that result in the differential treatment of and/or have an unwarranted discriminatory impact on any individual or group on the basis of the following actual or perceived personal characteristics in either deciding to take or refrain from taking law enforcement action:

- Age
- Disability status (including physical disabilities)
- Economic status
- Familial status
- Gender expression
- Gender identity
- HIV status
- Homelessness
- Immigration status
- Language ability

- Mental illness
- National origin
- Political ideology
- Race, ethnicity, or color
- Religion
- Sex assigned at birth
- Sexual orientation
- Social status
- Veteran status

Such law enforcement actions may include, but are not limited to: contacts, stops, Weapons Pat-Downs, Searches, issuance of citations, property seizures and forfeitures, Arrests, uses of force, or responding to calls for service or other requests for assistance.

Field Interview — A consensual, non-hostile Voluntary Contact during which a member may ask questions or try to gain information about possible criminal activity, without indicating or implying that a person is not free to leave or is obligated to answer the member's questions.

Gender Expression — An individual's characteristics and behaviors (such as one's name, pronoun, appearance, dress, mannerisms, speech patterns, and body characteristics) that may express one's Gender Identity.

Gender Identity — An individual's deeply held internal knowledge or sense of being male, female or another gender which may or may not correspond to the individual's body or assigned sex at birth. Gender Identity may or may not be visible to others or expressed outwardly through a person's chosen pronouns, haircut, dress, behavior or voice.

Investigative Stop — The temporary involuntary detention and questioning of a person where the person was stopped based on Reasonable Articulate Suspicion that the person is committing, is about to commit, or has committed a crime. It occurs whenever a member uses words or takes actions to make a person halt, or to keep a person in a certain place, or to compel a person to perform some act. If a reasonable person under the circumstances would believe that they are not free to leave, a "stop" has occurred.

Search — An inspection, examination or viewing of persons, places, or items in which a person has a legitimate expectation of privacy. A Search need not be visual; it may include grasping, prying into or manipulating persons or objects (e.g., reaching into a purse or pocket, feeling inside of the trunk of a car; physical manipulation of a duffel bag, etc.). In some circumstances, a dog sniff may constitute a Search as well. See Policy 1602, *Canine Procedures*.

Vehicle Stop — The involuntary detention of a vehicle and the driver and/or the occupants of the vehicle.

Voluntary Contact — A non-investigative consensual encounter between a BPD member and one or more person(s) with the intent of engaging in a casual and/or non-investigative conversation (e.g., chatting with a local business owner or resident). The person(s) is free to leave or decline any request by the member at any point.

Weapons Pat-Downs — A brief, non-probing running of the hands over the outside of a person's clothing feeling for a weapon. A Weapons Pat-Down is authorized when the member reasonably suspects the person is armed. This can include situations in which the member reasonably suspects that the person has committed, is committing, or is about to commit a violent crime or when the member observes something on the person that they reasonably suspect is a weapon. A Weapons Pat-Down may not be conducted to discover evidence or the proceeds or instrumentalities of a crime. A member cannot "pat-down" a bag or item of personal property unless the member has a reasonable suspicion that the person is armed and the bag or item could contain a weapon and is within the person's reach.

DIRECTIVES

Required Actions

1. To prevent creating the perception of bias, BPD members shall use the following measures whenever reasonably possible when conducting Investigative Stops, Weapons Pat-Downs, Searches, property seizures, and Arrests:
 - 1.1. Be professional and polite.
 - 1.2. Introduce yourself and explain to the person, as soon as possible, the reason for the contact unless providing this information will compromise the investigation or the safety of members or other persons.
 - 1.3. Ensure the length of the Investigative Stop or Vehicle Stop is no longer than reasonably necessary to take appropriate action for the known or suspected offense, as well as any offense which is legitimately discovered during the course of the investigation.
 - 1.4. Ensure that the purpose of reasonable delays is explained to the person stopped/detained.
 - 1.5. Answer any questions the person may have.
 - 1.6. Provide name and badge number when requested, verbally, in writing, or on a business card.
 - 1.7. If the reasonable suspicion for the stop is dispelled or the stop was made in error, explain to the person why the error was made and apologize for any inconvenience.
2. In performing contacts, Investigative Stops, Weapons Pat-Downs, Searches, property seizures, and Arrests, BPD members shall comply with Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches* and Policy 1106, *Warrantless Arrest Procedures and Probable Cause Standard*, which require, among other things, (a) making investigative pedestrian and traffic stops and conducting Weapons Pat-Downs based only upon reasonable articulable suspicion and (b) conducting Searches of persons and property and making Arrests based only on probable cause.
3. BPD members shall comply with Policy 1115, *Use of Force*, which requires that members use de-escalation techniques to reduce any threat or gain compliance with lawful commands, and that members use force only when reasonable, necessary, and proportional in light of the totality

of circumstances that were known (or should have been known) to the member at the time. As Policy 1115 dictates, BPD members shall immediately reduce the level of force being considered or used as the threat or resistance diminishes.

4. BPD members shall comply with all other BPD policies that govern interactions with members of protected groups, for example, Policy 720, *Interactions with Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Individuals*.
5. In performing all duties, members shall conduct themselves courteously and professionally, following the standards outlined in Policy 301, *Code of Ethics*, and Policy 305, *Departmental Values, Vision and Mission*.
6. It is the duty of BPD members who have observed, or are aware of others who have engaged in, Discriminatory Policing to specifically report such incidents to a supervisor or to the Office of Professional Responsibility (OPR), providing all information known to them before the end of the shift during which they make the observation or become aware of the incident. See Policy 320, *Duty to Report Misconduct/Whistleblower Protection*. Failure to report misconduct is itself misconduct.
7. At any point that an individual states that they would like to make a complaint against a BPD member for Discriminatory Policing or any other violation of BPD policy, the BPD member shall provide the individual with information on how to make such a complaint. The member shall promptly inform their supervisor and ask the supervisor how long it will take to respond to the scene. The member shall inform the individual that the supervisor can respond to the scene to assist the individual in filing a complaint, if the individual desires and is willing to wait for the supervisor to arrive. The member will also provide the individual with a Police Complaint Form; information about the 24-Hour Complaint Hotline; how to file a complaint with the BPD online, at any District, or by calling or visiting OPR; and how to file a complaint online or in-person with the Civilian Review Board. See Policy 306, *Misconduct Complaint Intake and Classification Process*, for further guidance on the complaint intake process.
 - 7.1. For purposes of this policy, an allegation of Discriminatory Policing does not require use of the words of "Discriminatory Policing" or "racial profiling," but rather occurs whenever, from the perspective of a reasonable person, a person states that a member treated him, her, or someone else differently because of any of the actual or perceived personal characteristics listed in the definition of "Discriminatory Policing" above, or affiliation with any other similarly identifiable group.
 - 7.2. All allegations of violations of this policy will be referred to and investigated by OPR and/or the Civilian Review Board, and may result in disciplinary action as specified in Policy 310, *Disciplinary/Failure to Appear and Traffic Matrix*.

Prohibited Actions

1. BPD members shall not consider, to any extent or degree, the actual or perceived personal characteristics listed above in the definition of Discriminatory Policing while conducting investigations, or while taking (or refraining from taking) law enforcement action—including contacts, stops, Weapons Pat-Downs, Searches, issuance of citations, property seizures and forfeitures, Arrests, uses of force, or responding to calls for service or other requests for assistance—unless an allowable exception exists.

- 1.1. BPD members may not consider the actual or perceived personal characteristics listed above in the definition of Discriminatory Policing in determining reasonable suspicion or probable cause, unless an allowable exception exists.
- 1.2. An allowable exception exists only when the personal characteristic is physically observable, and part of a reliable and trustworthy description of a specific suspect in an ongoing investigation, where that description also includes other appropriate non-demographic identifying factors. If the member has relied on this type of information, they must document it.

NOTE: Some of the personal characteristics listed above in the definition of Discriminatory Policing are not physically observable, and thus they cannot be part of a reliable and trustworthy physical description of a specific suspect. Sexual orientation, Gender Identity, religion, and immigration status are examples of personal characteristics that are not physically observable.

NOTE: The credibility and basis of knowledge of the person providing a suspect description are important when determining whether a suspect description is reliable and trustworthy. BPD members must be aware that information provided to the police by the public may itself be the product of, or motivated by, bias or assumptions, and thus be unreliable and discriminatory. An anonymous tip alone is seldom sufficiently reliable, without further information obtained through personal observation or from a known, reliable source. For example, if the information in the anonymous tip is corroborated by a BPD member's subsequent view of that person in or near the reported location moving in the reported direction, or participating in the alleged conduct, the reliability of the tip would be enhanced. Additionally, a known informant who has provided accurate tips on prior occasions is generally considered reliable.

NOTE: Not every actual or perceived personal characteristic shall be documented. However, BPD members **must** document the demographic category of the individual (to include race, age, ethnicity and Gender Expression) for all Investigative Stops and Vehicle Stops, no matter the outcome of the stop. See Policy 1112, *Field Interviews, Investigative Stop, Weapons Pat-Downs & Searches*, and Policy 720, *Interactions with Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Individuals*. It is not appropriate to document other actual or perceived personal characteristics (e.g., LGBT status, religion, immigration status) unless it is disclosed by the individual and it is central to the encounter or incident (e.g., a person reports believing that he is being harassed because he is Muslim).

- 1.3. BPD members may consider the personal characteristics listed above in the definition of Discriminatory Policing, if known, in developing activities designed to strengthen BPD's relationship with the diverse communities it serves (e.g., an event organized by the Department's Hispanic Liaison or Muslim Community Liaison to address concerns specific to those communities).
- 1.4. BPD members are expected to consider relevant personal characteristics of an individual when determining whether to provide services designed for individuals with those characteristics (e.g., behavioral crisis, homelessness, addiction, etc.). See Policy 712, *Crisis Intervention Program*.

NOTE: The BPD is committed to its mission of maintaining a culture of service and providing for the well-being of the community. Therefore, BPD members will, as appropriate, assist persons with specific needs in accessing services.

2. Members shall not take law enforcement action based on information from members of the public that they know or should know is the product of, or motivated by, bias based on any of the personal characteristics listed above in the definition of Discriminatory Policing.
3. BPD members shall not use language, display symbols or make gestures that are commonly viewed as offensive to, or indicative of, bias toward any person based on any of the actual or perceived personal characteristics listed above.
 - 3.1. BPD members shall refer to all persons, including LGBTQ individuals, using the names, pronouns, and titles of respect appropriate to the person's gender identity as expressed or clarified by the person. Proof of the person's gender identity, such as an identification card, will not be required. See Policy 720, *Interactions with Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Individuals*.
 - 3.2. Members shall not inquire about the intimate details of a person's sexual practices, anatomy, or gender-related medical history. See Policy 720, *Interactions with Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Individuals*.
4. Members shall not engage in any form of retaliation, interference, intimidation, coercion, or adverse action against any person because that person indicates they would like to make a complaint, reports Discriminatory Policing, or attempts to make or makes a Discriminatory Policing complaint.

Supervisory Requirements

1. Each supervisor has an individual obligation to ensure the timely and complete review and documentation of all allegations of violations of this policy that are referred to them or of which they should reasonably be aware. Commanders and supervisors shall ensure that all allegations of violations of this policy will be entered into BlueTeam and forwarded to OPR by the end of their tour of duty. See Policy 306, *Misconduct Complaint Intake and Classification Process*, Policy 320, *Duty to Report Misconduct/Whistleblower Protection*, and Policy 310 *Disciplinary/Failure to Appear and Traffic Matrix*.
2. Supervisors shall ensure that all members under their command are familiar with the contents of this policy through roll call discussions, In-Service Training and other means.
3. Supervisors shall ensure that all members under their command respond to and report any indication that Discriminatory Policing is occurring. Supervisors will accomplish this through, among other things, daily observation and monitoring, regularly checking in with members, and reviewing body-worn camera footage with regularity.
4. Supervisors shall ensure that no retaliation, intimidation, coercion or adverse action is taken against any person, including any member, who discloses information about or participates in the investigation of allegations of Discriminatory Policing. Any such action shall result in discipline, demotion, termination, or other appropriate corrective action based on the seriousness of the conduct. See Policy 306, *Misconduct Complaint Intake and Classification Process*.

Training and Compliance

1. All sworn BPD members shall receive yearly training in fair and impartial policing, including the legal aspects of it.
 - 1.1. Training on fair and impartial policing will include the following topics: implicit bias and how to recognize and minimize its impact on policing; police legitimacy and how it is adversely affected by implicit bias and Discriminatory Policing; strategies for effective policing that rely on nondiscriminatory factors; cultural competency and cross-cultural communication; police and community perspectives related to Discriminatory Policing; legal requirements to provide equal protection of the law and legal prohibitions against unlawful discrimination; the protection of civil rights, the existence and impact of arbitrary classifications and stereotyping; data collection protocols; identification of key decision points where Discriminatory Policing can occur; strategies to reduce misunderstanding, conflicts and complaints; the history of race in Baltimore City; procedural justice and its goals; and strategies for interacting with LGBTQ individuals.
 - 1.2. Training on police actions, including stops, Weapons Pat-Downs, Searches, property seizures, Arrests, and use of force, shall include training on how to take these actions in a non-discriminatory manner.
2. BPD shall regularly, including at the yearly training, present (1) data and trends relating to complaints of Discriminatory Policing and (2) noteworthy issues involving protected groups, for example issues identified in Policy 720, *Interactions with Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Individuals*.
3. Violations of this policy will not be tolerated and will result in discipline, re-training, counseling or other remedial intervention as appropriate.
 - 3.1. BPD members who engage in, ignore, or condone Discriminatory Policing will be subject to discipline.
 - 3.2. Commanders and supervisors who fail to respond to, document, or review allegations of Discriminatory Policing will be subject to discipline.
4. A history of Discriminatory Policing or of other noted bias based on protected characteristics – including sustained violations of this policy, BPD’s sexual harassment policy, or BPD’s policy prohibiting discrimination against BPD employees – will be considered in member performance evaluations and hiring and promotion decisions. See G.O. Q-8, *Sworn Performance Evaluation*, Policy 1701, *Equal Employment Opportunity and Diversity*, and Policy 1705, *Transfer/Detail/Filing Vacancies*).
5. To determine whether BPD and its members are complying with this policy, BPD will routinely collect, analyze, and audit data on its law enforcement activities, including stops, Weapons Pat-Downs, Searches, property seizures and forfeitures, Arrests, uses of force, misconduct investigations and discipline. These analyses and audits will be designed to identify BPD practices that have a disparate impact on groups of individuals based on the personal characteristics listed above in the definition of Discriminatory Policing or that otherwise demonstrate differential treatment of individuals based on those characteristics. These analyses and audits will also include an accounting of community concerns. See Policy 306, *Complaint Intake and Classification Process*, Policy 310, *Disciplinary/Failure to Appear and Traffic Matrix*,

Policy 1007, *Search and Seizure Warrants*, Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches*, Policy 1114, *Persons in Police Custody* and Policy 1115, *Use of Force*.

- 5.1. BPD shall make the results of these analyses, and the data on which they are based, publicly available.
- 5.2. The Commissioner, or another command staff member whom the Commissioner may designate, shall routinely review the results of these analyses to make determinations regarding agency policy, and how to continually improve BPD's delivery of public safety services.

ASSOCIATED POLICIES

Policy 301,	<i>Code of Ethics</i>
Policy 305,	<i>Department Values, Vision and Mission</i>
Policy 306,	<i>Misconduct Complaint Intake and Classification Process</i>
Policy 310,	<i>Disciplinary/Failure to Appear and Traffic Matrix</i>
Policy 320,	<i>Duty to Report Misconduct/Whistleblower Protection</i>
Policy 712,	<i>Crisis Intervention Program</i>
Policy 720,	<i>Interactions with Lesbian, Gay, Bisexual, Transgender and Queer/Questioning Individuals</i>
Policy 815,	<i>Hate Crimes</i>
Policy 1007,	<i>Search and Seizure Warrants</i>
Policy 1112,	<i>Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches</i>
Policy 1114,	<i>Persons in Police Custody</i>
Policy 1115,	<i>Use of Force</i>
Policy 1701,	<i>Equal Employment Opportunity and Diversity</i>
Policy 1705,	<i>Transfer/Detail/Filing Vacancies</i>
G.O. Q-8,	<i>Sworn Performance Evaluation</i>

RESCISSION

Remove and destroy/recycle Policy 317, *Fair and Impartial Policing* dated 1 July 2016.

COMMUNICATION OF POLICY

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



Policy 1114

Subject

PERSONS IN POLICE CUSTODY

Date Published

DRAFT 5 July 2018

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By Order of the Police Commissioner

POLICY

The purpose of this policy is to ensure the safety and security of detainees, members, facility staff members, and the public when a person is taken into custody and transported.

CORE PRINCIPLES

1. **Safety.** Members shall ensure the safety of detainees at all times. Members shall treat all detainees in a humane manner throughout the time they are in custody, including before, during, and after transportation, with due regard for their physical safety and protection, consistent with sound principles of detainee security.
2. **Duty to Provide Medical Attention.** When there is an obvious injury, complaint of injury, signs of medical distress, or when any detainee requests medical attention, members shall immediately render aid consistent with his/her training and notify their supervisor and the Communications Section. The member shall then request that a medic respond to the scene or transport the detainee directly to the nearest hospital emergency room. Refer to Policy 1121, *Detainees in Hospital Environments*, for specific policies regarding the safety and security of detainees in hospital environments and hospital details.
3. **Juveniles.** Juvenile detainees shall not be transported in the same compartment as adult detainees. If a juvenile is taken into custody, refer to Policy 1202, *Juveniles: Consensual, Non-Custodial Contacts and Custody Procedures*.

DIRECTIVES

General Procedures

1. At all times, detainees shall be secured and transported in a manner that ensures their safety.
2. When a detainee is transported in a police vehicle, members shall ensure that:
 - 2.1. Only vehicles with safety barriers and sufficient, functioning seatbelts for each detainee are used for transport. Additionally, all prisoner transport vans shall be outfitted with a grip strap along the rear area of each seat.
 - 2.2. The detainee is secured with the provided seat belt or authorized restraining device.
 - 2.3. The member's body-worn camera is activated throughout the duration of the transport.

3. Members shall never leave a detainee unattended in the transport vehicle.
4. Members shall not engage in any unrelated enforcement activities unless failure to act would result in imminent risk of death or serious bodily injury.
5. At all times, detainees shall be treated humanely. Members shall ensure that:
 - 5.1. Detainees have access to food, water, medicine, and restrooms to the greatest extent possible.
 - 5.2. Members shall avoid exposing detainees to extreme temperatures and, whenever possible, shall hold detainees in climate controlled vehicles to avoid exposure to extreme temperatures. For avoidance of doubt, "extreme temperatures" means ambient temperatures exceeding 85 degrees Fahrenheit or below 55 degrees Fahrenheit.
 - 5.3. Members will ensure that detainees are transported directly and as soon as possible to CBIF or another appropriate facility for processing. Absent exigent circumstances, detainees should never remain in police custody, including in a transportation van, for a period of time that exceeds two hours. Exigent circumstances do not include a shortage of available police officers or other resources.

Medical Attention Procedures

1. If a medical issue or injury is present or arises, ensure the detainee's safety is maintained at all times.
2. Take precautions not to aggravate any injury when searching and restraining the detainee.
3. Ensure the detainee is guarded at all times.
4. Request a medic unit respond to the scene or transport the detainee directly to the nearest hospital emergency room.
5. Ensure the medical facility or medic unit number is noted on a Supplement Report to the Incident Report as well as the date and time treatment was provided.
6. When a detainee is ill, hurt, or injured and is to be admitted to a hospital before being processed at Central Booking, the member shall follow the procedures outlined in Policy 1121, *Detainees in Hospital Environments*.
7. If a detainee refuses treatment at a medical facility, obtain a copy of the detainee's written refusal of treatment from the medical facility, provide it to the booking personnel, and note the refusal on a Supplemental Report.
8. Make note of the medical issue and the assistance given on Charge Information Form, Form 12 (see Appendix A).
9. When observing a detainee in custody, members shall carefully consider the following to provide appropriately for the safety of detainees:

- 9.1. Statements that might indicate suicidal intent,
 - 9.2. Signs of depression or humiliation,
 - 9.3. Evidence of prior suicide attempts (e.g., scars),
 - 9.4. Activity which would lead a prudent individual to suspect a potential for danger of self-harm (e.g., banging of the head against a wall or hard object, charging into hard objects, etc.),
 - 9.5. Evidence or information about health conditions or mental health status received from family, friends, or other sources, and
 - 9.6. Information regarding previous arrests, such as the suspect resisted or assaulted the arresting officer.
10. Manage all reports of detainees with possible or obvious mental illness, emergency evaluations, and related issues in accordance with Policy 713, *Responding to Mental Health Emergencies and Petitions for Emergency Evaluations*.
- 10.1. If a detainee meets the criteria for emergency psychological evaluation, members shall:
 - 10.1.1. Immediately transport the detainee to the appropriate medical facility, in accordance with Policy 713, *Responding to Mental Health Emergencies and Petitions for Emergency Evaluations*.
 - 10.1.2. Provide the required supporting documentation to the medical facility treating the detainee, and
 - 10.1.3. Request an emergency evaluation for any detainee coming into police custody who exhibits any intent toward suicide, self-harm or other signs of mental illnesses.
- NOTE:** A detainee does not need to voice suicidal intent to cause an emergency evaluation. Any combination of factors which may cause alarm on the part of an officer might trigger an evaluation. Any suicide attempt or attempt at self-harm shall immediately require an evaluation.
11. Determine if the detainee is under any prescribed medication prior to transporting him or her from the detention facility, mental health facility, or hospital, and ensure the medication accompanies the detainee in sufficient quantity to cover the anticipated time in departmental custody. The medication shall:
- 11.1. Be capable of being administered orally,
 - 11.2. Not require refrigeration, and
 - 11.3. Be prescribed by a medical professional, authorized and licensed to prescribe the medication.

Arrest Procedures

1. In an attempt to minimize the risk of injury to members and others during arrest situations, members shall handcuff all detainees as soon as possible and when safe to do so.

NOTE: If medical circumstances make it unreasonable to handcuff a detainee, members will refrain from handcuffing the arrestee. Un-handcuffed arrestees shall be guarded by a minimum of two members.

2. Members shall check handcuffs for tightness and double lock as soon as it is safe to do so prior to transport.
3. When a handcuffed detainee complains that handcuffs are too tight and/or are hurting the detainee, the member having custody of the detainee, shall, as soon as reasonably possible, check the handcuffs to make sure that they are not too tight. In general, the member should be able to place one finger between the handcuff and the detainee's wrist. If the handcuffs are too tight they shall be loosened and relocked.
4. Members shall never leave handcuffed detainee on hot pavement or in a face-down prone position. Members shall protect the detainee from environmental factors (e.g., snow, rain, extreme temperatures, etc.) when determining how and where to place detainees awaiting transport.
5. Members shall not use force against detainees who are handcuffed or otherwise restrained, except in exceptional circumstances where the totality of circumstances makes it reasonable and necessary to prevent injury or escape. Members are cautioned that force that may be proportional against an unrestrained person may not be proportional when used on a restrained detainee (See Policy 1115, *Use of Force*).

Search Procedures

1. When a detainee is transported in a police vehicle, members shall ensure that the detainee is searched by the arresting member and the transporting officer before being placed in a police transport vehicle.

NOTE: Members shall not conduct cross-gender searches unless exigent circumstances exist. All cross-gender searches shall be documented on an administrative report and attached to the arrestee's file in accordance with Policy 1013, *Strip Searches and Body Cavity Searches*.

2. The transporting officer shall ensure the transport vehicle is inspected for any property left inside prior to placing the detainee in the vehicle and again after the detainee is removed from the vehicle.

NOTE: If any contraband and/or CDS are found in the vehicle, the transporting officer shall recover them in accordance with Policy 1401, *Control of Property and Evidence*.

Restraint Procedures

1. At all times, detainees shall be secured in a manner that ensures their safety.
2. Detainees shall be restrained in a manner that does not cause undue pain, undue risk of injury, or actual injury.
3. Members are **prohibited** from transporting detainees who are restrained in a prone position (including the so-called "hog-tie" position).
4. Members are **prohibited** from handcuffing detainees to any part of the vehicle being used for transport.

NOTE: All passengers, regardless of age and seat location, shall be restrained by seat belts or other authorized restraining devices. Maximum number of detainees transported cannot exceed number of seatbelts.

Transportation Procedures

1. For every instance of detainee transport, the transporting member shall transmit the below information via police radio and/or report the following information on the Charge Information Form, Form 12 (see Appendix A), which shall be preserved for review.
2. Transporting members shall report via radio:
 - 2.1. The number of detainees in custody that are being transported,
 - 2.2. The location where detainee(s) enter(s) the transport vehicle (if different from arrest location),
 - 2.3. The destination to which the detainee(s) are being transported,
 - 2.4. When the transportation vehicle departs the scene with dispatch providing the official timestamp,
 - 2.5. When the transportation vehicle arrives at the destination with dispatch providing the official timestamp, and
 - 2.6. Any request for medical attention by the detainee or transporting member.
3. Members shall include the above information via the Charge Information Form, Form 12, as well as:
 - 3.1. The starting and ending mileage on the vehicle,
 - 3.2. Whether the transport vehicle made any additional stops,
 - 3.3. Whether at any time the member perceived the detainee in custody to be in need of medical attention,
 - 3.4. Whether force was used during transport,
 - 3.5. Whether the detainee was adequately restrained by a seatbelt during transport, and

- 3.6. Whether the detainee was injured during transport, the nature of the injury, and whether first aid or medical care was provided.

NOTE: Every injury that is reported to have occurred during transport shall be reviewed as a use of force or, if appropriate, as part of a vehicle crash investigation.

4. Members shall make reasonable accommodations for detainees with disabilities. When there is an arrest involving a detainee with a disability requiring a wheelchair, crutches, prosthetic devices or other medical equipment, members shall take the following actions:
 - 4.1. Transport the detainee in a transport vehicle to the appropriate facility.
 - 4.2. Transport medical equipment to the final destination of the individual who requires it. If possible, the medical equipment shall be transported in the same vehicle as the individual who requires them if this can be done without creating potentially hazardous conditions.
 - 4.3. If portable, fold and place the wheelchair or other equipment in the trunk of the transporting vehicle. If the equipment is electric, members shall secure it in a prisoner transport van and transport it to the facility where the detainee is taken.
5. Members responsible for prisoner transportation shall be aware of detainees' physical well-being to ensure that the individual is transported safely.
 - 5.1. Member shall periodically check on the detainees from the time of arrest to the time of transfer of custody, either by direct observation or through live video transmission, to ensure the safety and security of the member(s), people being transported, and to check for apparent signs of medical distress or emergency.
 - 5.2. Member shall drive at a speed which does not exceed the speed limit and in a manner that is calculated to preserve the safety and security of the detainee being transported.

EXCEPTION: If the detainee requires urgent and emergency medical care, the transporting officer may exceed the posted speed limit, as allowed for emergency vehicles under the state law.

6. Males and females shall not be transported in the same compartment of a vehicle.
 - 6.1. If the vehicle contains only one compartment used for transporting detainees, BPD shall use separate vehicles to transport males and females.
 - 6.2. Transgender, intersex, and/or gender non-conforming individuals shall be transported with other arrestees of the same gender identity and expression, unless the individual expresses a safety concern or the officer identifies a safety concern, in which case the individual shall be transported alone.

7. Juveniles and adult detainees shall not be transported in the same compartments. See Policy 1202, *Juveniles: Consensual, Non-Custodial Contacts and Custody Procedures*, for all other guidance pertaining to juveniles in custody.
8. Detainees are not permitted to communicate with others (e.g. attorneys, family members) during transport.
9. Transporting members shall submit all completed Charge Information Forms, Form 12, to their supervisor by the end of their tour of duty.

Destination/Arrival Procedures

1. The detainee shall remain handcuffed upon arrival at any facility (e.g., Headquarters, District station house, Baltimore Central Booking and Intake Facility (CBIF)).
2. Sufficient sworn personnel shall be present when moving detainees from the transporting vehicle to the booking facility or other locations that might afford the opportunity for the escape of the detainee or injury to the officer or others.
3. The detainee shall be escorted by more than one sworn member for all restroom breaks.
4. When a detainee is transported to a police building and placed in a holding cell, the detainee shall remain the responsibility of the transporting officer until the detainee is transported from the facility.

NOTE: The transporting officer may relinquish custody of the detainee to another sworn member. This transfer of custody shall be clearly communicated between both members, and the member assuming custody of the detainee shall again search the detainee.

Booking & Intake Center Procedures

1. Members shall enter CBIF by vehicle through the door located on the Madison Street side of the building and park in the provided temporary space.
2. Members shall remove the detainee from the transport vehicle and take him/her to the detainee sally port. Members shall announce their presence through the intercom and the door shall be opened. The detainee shall remain handcuffed during this process.

NOTE: A member shall be met by a correctional officer, who shall search the detainee for contraband, conduct an evaluation, and obtain information about the detainee. A member may be searched if the correctional officer believes the member is still armed. A member shall wait in the sally port area for this assessment to be completed.

3. The member shall advise CBIF personnel of any potential medical or security risks.
4. The member shall immediately assume responsibility for any narcotics, weapons, or contraband found on the detainee that warrants criminal charges. The correctional officer shall be included in the chain of custody for the Property Receipt, Form 56, and members shall refer to Policy 1401, *Control of Property and Evidence*, when taking property or evidence into custody,

5. The member shall relinquish responsibility for the detainee to the correctional officer when all the conditions set forth by the CBIF are met for the booking process. The member shall then retrieve their handcuffs at the search room prior to the strip search and after the detainee clears medical.
6. The detainee's personal property shall be accepted by CBIF but shall be limited to:
 - 6.1. Clothing being worn by the detainee upon arrival, and
 - 6.2. Non-contraband personal property.

NOTE: Members may be required to transport and transfer detainees to other agencies/facilities. In these instances, members shall determine the point and time of transfer, and adhere to the intake procedures for that agency/facility.

Escape and Death in Custody Procedures

1. If a detainee escapes from police custody, the custodial officer shall:
 - 1.1. Immediately notify a supervisor and request the supervisor to respond, who shall in turn notify the Office of Professional Responsibility (OPR) and submit a BlueTeam entry.
 - 1.2. Immediately notify the Communications Section, providing:
 - 1.2.1. Time of the escape,
 - 1.2.2. Location of the escape,
 - 1.2.3. Direction and method of travel of the escapee, and
 - 1.2.4. Description of the escapee.
 - 1.3. Prepare an Incident Report that includes:
 - 1.3.1. Time of escape,
 - 1.3.2. Location of escape,
 - 1.3.3. Direction and method of the escapee,
 - 1.3.4. Description of the escapee,
 - 1.3.5. Circumstances of the escape,
 - 1.3.6. Notifications made.
2. In all situations where a detainee dies while in the custody of the BPD, the member shall:

- 2.1. Notify a command staff member immediately and secure the scene.
- 2.2. Notify the Homicide Section.
- 2.3. Request activation of Special Investigation Response Team (SIRT) by communications.
- 2.4. Refer to Policy 710, Level 3 *Use of Force Investigations / Special Investigation Response Team (SIRT)*.

REQUIRED ACTION

Communications Section

1. Acknowledge transporting members' departure and arrival radio reports with the official timestamp.
2. Coordinate the dispatch of medical attention and/or specialized units in instances of detainee injury, escape, or death.

Supervisors

1. Initiate a review of every injury that is reported to have occurred during transport as a use of force, or if appropriate, as part of a vehicle crash investigation.
2. If detainee requires medical attention, determine how many officers will be assigned to guard and assign members as needed (See Policy 1121, *Detainees in Hospital Environments*).
3. Respond to the scene in instances of detainee escape or death. Immediately notify OPR, and initiate a BlueTeam entry.
4. Collect all completed Charge Information Forms, Form 12, from transporting members by the end of their tour of duty.
5. Review reports to ensure compliance with this directive.

Shift Commanders

1. If a detainee is injured and admitted to a medical facility as a result of police action or use of force, ensure the Special Investigations Response Team (SIRT) is immediately notified. A BlueTeam entry shall be completed.
 - 1.1. In cases where the detainee's injury is serious and/or potentially life-threatening, notification shall be made promptly, even if a decision as to the detainee's admission to a medical facility has not yet been made.
 - 1.2. In cases of serious injury or death, which necessitate response and/or investigation by the Homicide Section, the Shift Commander shall notify Homicide at 410-396-2100.

2. If a detainee is badly injured and is admitted to a medical facility for a stay exceeding 24 hours, Shift Commanders shall seek a Bed Side Commitment (See Policy 1117, *Adult Booking Procedures*) by the end of their tour of duty.

Education & Training Section

1. Provide a training of at least eight hours to members who drive transport vans on the safe and humane transportation of detainees to include:
 - 1.1. BPD policy and procedures related to transport,
 - 1.2. Safe driving methods,
 - 1.3. Identification of medical stress and injuries, and
 - 1.4. Proper restraint techniques.
2. Four hours of the above required training may be satisfied by general training programs that address the safe transportation of detainees, the identification of medical distress and injuries, and proper restraint techniques.

Internal Audits Section

1. Conduct quarterly audits of the transportation process to determine if officers properly followed correct transportation procedures and that detainees who are being transported are not placed at risk of injury. The audits include:
 - 1.1. A review of information for at least five randomly selected instances of transport of detainees from each police district within the previous quarter, including reviewing all video recordings associated with each instance; reviewing and analyzing location, time, and odometer information to calculate the speed that the transport vehicle was driven; and reading any reports associated with the arrest, detention, and transport of the detainee;
 - 1.2. An analysis of the data collected during the previous quarter, as outlined in the **Transportation Procedure** — page 5 in this policy.
 - 1.3. A review of every injury reported to have occurred during transportation to determine if there are any trends related to transport policies or practices;
 - 1.4. Random and unannounced spot-checks of at least three transportation vehicles from each BPD district to inspect for use of seatbelts and operation of the TVC system.

Fugitive Units

When a person is taken into custody by the Fugitive Unit, members shall adhere to the following procedures in addition to those listed above:

1. At no time shall a member transport more than one detainee without the approval of a permanent-rank supervisor.

2. Prior to the transport, members shall ensure the vehicle is equipped properly with functioning seatbelts, a spare tire, jack, and lug wrench. The vehicle shall also have properly inflated tires and sufficient fuel and oil. All guidelines under **Transportation Procedures** — Page 5 of this policy shall be met.
3. Members shall obtain expense approval from the Office of the State's Attorney and acquire forms and detainee documentation. The member shall submit this documentation to Fiscal Services.
4. The detainee shall be made as comfortable as possible, given the length of the trip, and shall be secured to the maximum degree with appropriate restraints per unit's operating procedures.
5. Members shall schedule restroom breaks and meal consumption prior to departure to alleviate the need for interrupted transport.

NOTE: Members shall re-secure detainees in the transport vehicle following any meal consumption or restroom break.

6. Should a detainee escape occur in another jurisdiction, the transporting officer shall be guided by the policy of that jurisdiction. In the absence of a Memorandum of Understanding (MOU) between the BPD and the jurisdiction, search and apprehension of the detainee shall be handled by the other agency.

NOTE: The transporting officer shall immediately notify the jurisdictional agency, OPR, and the member's immediate supervisor, who shall make the Blue Team entry and ensure all subsequent notifications are made.

APPENDICES

- A. Charge Information Form, Form 12

ASSOCIATED POLICIES

- Policy 503, *Transportation of Passengers in Departmental Vehicles*
Policy 710, *Level 3 Use of Force Investigations / Special Investigation Response Team (SIRT)*
Policy 713, *Responding to Mental Health Emergencies and Petitions for Emergency Evaluations*
Policy 720, *Interactions with LBGTQ Individuals*
Policy 825, *Transport Vehicle Camera (TVC) System*
Policy 1013, *Strip Searches and Body Cavity Searches.*
Policy 1115, *Use of Force*
Policy 1117, *Adult Booking Procedures*
Policy 1121, *Detainees in Hospital Environments*
Policy 1202, *Juveniles: Consensual, Non-Custodial Contacts and Custody Procedures*
Policy 1401, *Control of Property/Evidence*

RESCISSION

Remove and destroy/recycle Policy 1114, *Persons in Police Custody*, dated 1 July 2016.

COMMUNICATION OF POLICY

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

APPENDIX A

Charge Information Form, Form 12

**Charge Information Form
Form 12, (3.1.18)**

BOOKING INFORMATION									
BIN:					DATE & TIME OF ARREST:				
ARRESTING AGENCY:					PRIMARY CHARGE:				
Arresting Officer (Rank and Name)					Sequence Number	Unit Number	Assignment		
Location of Arrest (Street, City, County, Zip Code)							Type of Arrest		
Central Complaint Number					Juvenile Custody Number (if applicable)				
Warrant Number					Traffic Citation Number				
PRISONER INFORMATION									
PRISONER SOBRIETY: <input type="checkbox"/> SOBER <input type="checkbox"/> HAS BEEN DRINKING <input type="checkbox"/> INTOXICATED <input type="checkbox"/> OTHER: _____									
Arrestee's Name (Last, First, Middle)					Name Used (if different)				
<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other or Unknown	Race	Date of Birth (MM/DD/YYYY)	Age	Height	Weight	Hair Color	Eye Color		
Arrestee's Address (Number, Street Name, Apartment)									
Arrestee's Address (City, State, Zip Code)									
Address of Residence (if applicable)					Local Address (if applicable)				
Was Amphetamine Seized?			Location Where Seizure Conducted			Description of Substance Seized (If applicable)			
Type of Circumstances, Reason(s), or Remarks Related to the Prisoner of Arrest									
TRANSPORT INFORMATION									
TRANSPORT THIS PRISONER TO: <input type="checkbox"/> BCBIC <input type="checkbox"/> BCJJC <input type="checkbox"/> Other _____									
TO BE CHARGED AS: <input type="checkbox"/> AN ADULT <input type="checkbox"/> A JUVENILE									
Transporting Officer (Rank and Name)					Sequence Number	Unit Number	Assignment		
Transport Starting Location (if Different from Arrest Location: Street, City/County, Zip)					Final Court/Station Location	# of Others Transported		Starting Mileage	
Transport Destination Location (Street, City/County, Zip)			Did Transport Make Any Stops and If So?		If YES: Please Provide Address(es) (Street, City/County, Zip Code)			Ending Mileage	Time of Arrival at Destination
Was Amphetamine Seized? <input type="checkbox"/> Yes <input type="checkbox"/> No		If YES, Did Arrestee's Vehicle Was Not Fully Inspected Through Out the Transport, Please Explain:							
Was Transport Made Using Transport? <input type="checkbox"/> Yes <input type="checkbox"/> No		If YES, Please Explain:							
If Any Time Did the Transporting BPD Member Receive the Arrestee to Be in Need of Medical Attention? <input type="checkbox"/> Yes <input type="checkbox"/> No									
Was the Arrestee Injured During Transport? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, State the Nature of Injury and Whether First Aid or Medical Care Was Provided:									



Policy 306

Subject

COMPLAINT INTAKE AND CLASSIFICATION PROCESS

Date Published

DRAFT 3 July 2018

Page

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By Order of the Police Commissioner

POLICY

It is the policy of the Baltimore Police Department (BPD) to openly and readily receive all complaints of Misconduct reported by civilians and BPD members through several different avenues, to properly classify allegations, to monitor the status of all complaints, and to fully, fairly, and efficiently investigate these complaints. Where such a complaint is sustained against any BPD member, whether sworn or civilian, the member will be held accountable for his or her actions via a fair, objective, and consistent system that provides due process.

CORE PRINCIPLES

- Trust and Respect.** In order to achieve Constitutional, accountable, effective, and respectful policing, the BPD recognizes that there must be trust between the police and those they serve. The Office of Professional Responsibility (OPR) significantly contributes to this mission by ensuring that BPD's sworn and civilian members abide by the spirit and letter of the laws and policies governing their actions. It is paramount that the police treat all individuals with respect, fairness and dignity.
- Accountability.** BPD openly and readily receives all complaints reported by civilians and BPD members and fully, fairly, and efficiently investigates these complaints. Where such a complaint is sustained against any BPD member, whether sworn or civilian, the member will be held accountable for his or her actions via a fair, objective, and consistent system that provides due process.
- Intake.** As part of its commitment to the public, the BPD maintains a robust and transparent complaint intake system and offers various avenues to make a complaint. A complaint can be made in writing using the Unified Complaint Form (Appendix A), or online, via telephone, through a third party, or in person. A complaint can be made anonymously, and anonymous complaints will be investigated as fully and fairly as complaints in which the complainant provides a name.
- Classification.** All complaints will be properly classified, based solely on the nature of the allegations and the facts alleged to ensure proper oversight of complaints and/or allegations against BPD members.
- Tracking.** The BPD will track and monitor the status of all complaints, to include complaints filed with the Civilian Review Board (CRB), to ensure a thorough, timely investigative and decision-making process, and to ensure that OPR can report to the public on its activities.

6. **Confidentiality.** The BPD will protect the identity of complainants and the complaints of Misconduct they make, to the maximum extent required by law. OPR will further ensure all documentation collected or received shall be kept confidential and shall be maintained in a secure area. Such information shall only be shared with those individuals having an official need to know.

DEFINITIONS

Allegation – Any assertion of wrongdoing against a member of BPD, whether by a member of the public or a member of the BPD.

Intake Member – BPD member assigned to OPR who is responsible for receiving complaints – whether by phone, email, in-person, or by reviewing BlueTeam for supervisor entries – and conducting a preliminary investigation to make an initial classification of the complaint.

Minor Policy Violations

Misconduct – Action, inaction, and/or failure to act committed by any member of BPD, civilian or sworn, that violates BPD policy, or the law, or criminal acts by any member of the BPD, as outlined in the classifications protocol appended to the OPR Internal Operations and Training Manual.

Office of Professional Responsibility (OPR) - As the investigatory body of the BPD, OPR receives and reviews misconduct complaints or allegations against BPD members and investigates all alleged misconduct, policy violations and criminal violations. OPR coordinates with the Civilian Review Board (CRB) on all complaints within CRB jurisdiction that CRB is also investigating or reviewing.

Serious Misconduct – Deliberate acts or failures to act that could reasonably form the basis for significant disciplinary action against a member. Such disciplinary action would be reasonably likely to adversely affect that member's terms or conditions of employment up to and including termination of service.

DIRECTIVES

1. All complaints received about BPD member Misconduct – including allegations against both sworn and civilian members – shall be accepted and investigated, whether submitted by a member of the public or a BPD employee; whether submitted verbally or in writing, in person, by phone or online; whether submitted by a complainant, someone acting on his/her behalf, or anonymously; and even if the complainant is unable to identify the member's name or badge number.
2. All complaints shall be documented by the BPD in writing.

Receiving Complaints

All complaints from a member of the public will be courteously accepted by any BPD member. Individuals may make complaints in multiple ways, including in-person, by phone, through a 24-hour hotline, online, by email, or through a third party. Complaints may be made anonymously, and anonymous complaints will be investigated as fully and fairly as complaints in which the complainant party provides a name.

Employees receiving questions about the complaint investigation or mediation process should . . .

Complaint Forms and Explanation of the Complaint Process

1. Unified Complaint Form (Appendix A)
 - 1.1. The Bilingual English/Spanish Police Complaint Form shall be widely available at public buildings and locations throughout the City, including at all publicly accessible BPD buildings and at libraries.
 - 1.2. The form will be available as a two-part carbonless form, and in a printable format, both online (at the BPD website) as well as internally through the BPD Intranet, electronic applications.
 - 1.3. The forms shall also be available to community groups to provide to their members.
 - 1.4. Members of the public can obtain forms in-person at OPR, any BPD district, the Office of Civil Rights, from a supervisor in the field, or from any other BPD member.
2. Complaint Process Explanation form...

Telephone Complaints

1. A complaint can be made by calling 911, OPR, a BPD district station, or the dedicated 24-hour hotline (1-833-288-7245).
2. Information about BPD's free, 24-hour hotline for the public to make complaints shall be clearly displayed on the BPD website and on other BPD printed materials.

Online Complaints

1. Complaints can be made online or by email through the following avenues:
 - 1.1 Baltimore Police Department (www.baltimorepolice.org/citizen-complaint-form)
 - 1.2 Civilian Review Board website (<https://civilrights.baltimorecity.gov/civilian-review-board/file>)
 - 1.3 Via email to complaints@baltimorepolice.org

Required Actions for Members

1. All complaints received about BPD member Misconduct shall be accepted. No member may interfere with, hinder, or obstruct a person from making a complaint. The refusal to accept a Misconduct complaint, discouraging the filing of a Misconduct complaint, or providing false or misleading information about filing a Misconduct complaint, shall be grounds for discipline, up to and including termination.

2. During all interactions with a person wishing to make a complaint, member shall ensure his/her body-worn camera is activated for the duration of the exchange. See Policy 824, *Body-Worn Camera*.

NOTE: The fact that a complainant does not speak, read or write English, or is deaf or hard of hearing, shall not be grounds to decline to accept or investigate a complaint. The member may use the Language Line (1-844-898-7554), call for the assistance of a Qualified Bilingual Member, call Communications for a Sign Language Interpreter, or any other mode available as outlined in Policy 1735, *Language Access Services for Limited English Proficient Persons* and Policy 1103, *Communicating with Individuals Who Are Deaf and Hard of Hearing*.

3. All BPD sworn members shall carry Unified Complaint Forms in their BPD vehicles, and provide forms to individuals upon request. Under no circumstances will a BPD member, supervisor or other employee, direct complainants to the OPR office or another location to make a complaint instead of providing the complainant a complaint form.
4. All BPD sworn members shall provide their name and badge number in writing upon request to any individual.
5. If an individual indicates he/she would like to make a complaint while on the scene of an incident, the member will promptly inform his/her supervisor and ask how long it will take the supervisor to respond to the scene. If the individual is willing to wait, the supervisor will report to the scene with copies of the Unified Complaint Form, to assist the individual in filing a complaint.
 - 5.1. If the individual does not want to wait, the member shall provide the complainant with information about how to make a complaint, which includes the following methods: providing the person with a Unified Complaint Form and either collecting the completed form or instructing the person where to deliver it (whether in person at a BPD facility, by mail or by email), calling OPR directly, calling the toll-free hotline, going to any BPD facility, sending an email to complaints@baltimorepolice.org, filling out the complaint form on the BPD website, via the BPD mobile app, or directly with the CRB.

NOTE: A member is not required to delay taking law enforcement action while they wait for the supervisor to arrive, including, where appropriate, making an arrest.

6. Any BPD member that receives a Unified Complaint Form by an individual in person must accept the form, give the complainant the bottom copy of the form upon intake, and forward the original form immediately to his/her supervisor.
 - 6.1. For every completed Unified Complaint Form received by a member, that member must contact Communications to request a CC# for the issuance of the Unified Complaint Form, and must write that CC# on the form prior to giving the complainant a copy of the form.
7. If a member observes or becomes aware of any potential act of misconduct by a BPD member against a member of the public, that member SHALL report the incident to a supervisor or to OPR for appropriate documentation and investigation (see Policy 302, *Rules and Regulations* and Policy 320, *Duty to Report Misconduct/Whistleblower Protection*).

- 7.1. Failure to report an allegation of Misconduct will be considered Misconduct and will subject the member to discipline and/or appropriate corrective action based on the seriousness of the conduct.
- 7.2. BPD members are required to provide truthful and materially complete information and are required to give interviews as requested by detectives. False statements and material omissions can result in discipline, up to termination.
8. All forms of retaliation, interference, intimidation, coercion, or adverse action against any person because that person indicates he/she would like to make a complaint, reports Misconduct, attempts to make or makes a Misconduct complaint, or cooperates with an investigation, are **strictly prohibited** and shall result in discipline, demotion, and/or appropriate corrective action based on the seriousness of the conduct, in addition to any potential legal consequences for criminal acts.
 - 8.1. Actions which would be considered retaliatory can take many forms, including but not limited to:
 - 8.1.1 Threats or harassment.
 - 8.1.2. The malicious filing of a criminal or civil action.
 - 8.1.3. Undertaking any adverse action against any person involved in a complaint. For purposes of this policy, "adverse action" means any action that would dissuade a reasonable person from making a complaint or cooperating with the subsequent investigation.
 - 8.1.4. Decisions affecting an employee's hiring, promotion, or assignment.
9. When contacted by an individual to inquire about the status of their complaint investigation, the member shall promptly refer the individual to OPR.

Required Actions for Supervisors

1. If an individual on scene desires to make a complaint against a member in the supervisor's command, the supervisor must respond to the scene.
 - 1.1. The supervisor shall assist the individual by providing him/her with the Unified Complaint Form, accept the completed form and provide the individual with the bottom copy of the completed form.
 - 1.2. For every completed Unified Complaint Form received, the supervisor **must** contact Communications to request a CC# for the issuance of a Unified Complaint Form, and **must** write that CC# on the form prior to giving the complainant a copy of the form.
2. If the complainant did not wait for the supervisor to arrive, the supervisor must determine whether the member appropriately instructed the person on how and where he/she could make a complaint.
3. Upon receiving a complaint alleging that Misconduct has occurred, the supervisor shall:

- 3.1. Address any medical emergencies and conduct a preliminary investigation by gathering all relevant information and evidence, including photos, videos, physical evidence, witness information, etc.
- 3.2. Determine whether the Misconduct is an allegation of serious Misconduct or criminal violation, or is a minor policy violation.
 - 3.2.1. If the complaint alleges serious Misconduct or a criminal violation, promptly notify OPR.
 - 3.2.2. If the complaint alleges a minor policy violation, enter all relevant information into BlueTeam, for notification to OPR.
- 3.3. For all complaints received enter all information and evidence, including the original completed Unified Complaint Form, into BlueTeam by the end of your tour of duty. All Misconduct complaints shall be referred to OPR by the end of the shift in which the Misconduct complaint was received, absent exceptional circumstances.
4. If supervisor identifies allegations of Misconduct that, under BPD policy, should be investigated by OPR, promptly notify OPR.
5. If supervisor believes that the member under investigation may have committed a criminal law violation, promptly notify OPR. **The supervisor shall not, under these circumstances, compel a statement from the subject member(s) without prior authorization from OPR.**

Member, Office of Professional Responsibility

OPR shall follow the detailed procedures for complaint intake, classification and assignment as outlined in OPR's Internal Operations and Training Manual for all complaints received. Below is a general outline of OPR's responsibilities throughout this process.

Intake

1. For complaints received in person or over the phone, the Intake Member shall follow the detailed procedure outlined in OPR's Internal Operations and Training Manual.
 - 1.1. The fact that a complainant does not speak, read or write English, or is deaf or hard of hearing, shall not be grounds to decline to accept or investigate a complaint. The member may use the Language Line (1-844-898-7554), TTY services, call for the assistance of a Qualified Bilingual Member, call Communications for a Sign Language Interpreter, or any other mode available as outlined in Policy 1735, *Language Access Services for Limited English Proficient Persons* and Policy 1103, *Communicating with Individuals Who Are Deaf and Hard of Hearing*.
 - 1.2. Individuals who make a complaint in person shall receive the bottom copy of their complaint form upon intake.
2. Upon receipt of any allegations filed via email or online, an Intake Member will contact the complainant within 48 hours to confirm receipt and request any additional information. The Intake Member will ask the complainant the best way to deliver the OPR informational flyer,

which contains information on where to find BPD's policies online and information about where they may be able to seek legal assistance.

3. The Intake Member will inform the complainant that his/her case will be assigned to a detective within 72 hours, and a follow up call will be conducted within 5 business days.
4. The Intake Member will interview the complainant on the member's body-worn camera, following OPR Internal Operations and Training Manual guidelines.
5. Once the Intake Member has received preliminary information, documentation, and classifies the complaint, he/she will upload the information into IAPro and forward the file to an investigating detective. The detective is then responsible for conducting an investigation in a thorough and timely manner.
6. Intake Members in OPR will conduct a daily review of all BlueTeam entries from the field, to include review of the full narrative in close detail, and ensure all allegations are noted and properly classified.
7. Notifications of all noteworthy incidents received should be made to your supervisor immediately, and shall be emailed to the Chief, OPR, and Major, Internal Affairs. The email should include the case number, name, sequence number and assignment of member involved, along with a brief synopsis of the complaint reported.

If Information is Incomplete

1. For calls where callers wish to remain anonymous, Intake Members will gather as much information about the subject of the complaint, type of incident, locations, date, time of occurrence and any other pertinent facts the caller divulges.
2. Failure of a complainant to provide certain information does not negate the Department's responsibility to investigate the allegations made.
3. For complainants who do not wish to be interviewed in-person or on the phone, the Intake Member will attempt to gather the necessary information from the complainant via email. In some instances, the complainant may decline to participate after making the initial complaint. **OPR will continue to investigate the allegation even without further participation by the complainant.**

Classification

1. OPR will properly classify each complaint based on the protocol outlined in the OPR Internal Operations and Training Manual. Classification protocol shall be publicly available and regularly updated, as necessary, on the BPD's website.
2. Complaint classification will be based solely on the nature of the allegations and the facts alleged in such allegations.
3. Any changes to a complaint classification shall be documented in writing in BlueTeam and approved by a commander in OPR, of rank Lieutenant or above.

4. An OPR commander shall coordinate the initial classification of internal complaints by BPD employees and ensure they are consistent with BPD's complaint classification protocol.
5. Upon being notified of any allegation of Misconduct through an internal or external complaint, within 72 hours the OPR will make an initial determination of the classification of the alleged offense and will assign a Misconduct investigator.
6. While reviewing the information provided by the complainant or during the course of an investigation, if other complaint types are discovered, they are to be made part of the charges against the member.
7. OPR will promptly refer eligible civilian complaints to the Civilian Review Board.

Communication with Complainant

1. Upon receipt of any allegations filed via email or online, an Intake Member will contact the complainant within 48 hours for any additional information.
2. Within seven days of receipt of a complaint, the Misconduct investigator will send non-anonymous complainants written notice of receipt.
3. 30 days after receipt of the complaint, the OPR investigator will contact the complainant via written letter to inform him/her of the status of the investigation.
4. In the course of investigating a civilian complaint, the Misconduct investigator will send periodic written updates to the complainant by mail and by email, if the complainant provides an email address.
5. Except as provided by paragraph 6, within 90 days of receipt of the complaint, the Misconduct investigator will provide the complainant with a final response indicating whether the allegations against the BPD member(s) were sustained, as well as any additional information permitted by applicable law.
6. If the Misconduct investigator is unable to complete the investigation within 90 days of receipt of the complaint, the Misconduct investigator shall notify the complainant and provide the complainant with the date the investigation is expected to be completed.
7. All investigators shall communicate with complainants in a professional and respectful manner. Investigators who fail to do so shall be subject to discipline, demotion, and/or appropriate corrective action based on the seriousness of the conduct.

Tracking

1. All allegations of Misconduct, whether submitted by a BPD member or based upon a civilian complaint, shall be tracked and monitored by OPR in IAPro, which assigns a case number to the complaint.
2. All documents and files – including audio and video – shall be kept in digital format, and are accessible to OPR investigators via IAPro.

NOTE: Body-worn camera footage is stored and accessible via Evidence.com. For those other video files that are too large for storage in IAPro, the video is burned onto a CD and kept in the physical case file.

3. Any complainant may contact OPR between 8:00am and 8:00pm to determine the status of his/her complaint, and OPR will provide the status.

Supervisor, Office of Professional Responsibility

1. Ensures initial contacts have been made within 48 hours of any online/email complaints.
2. Ensures all allegations of Misconduct are properly classified and assigned to an investigator within 72 hours.
3. Ensures all necessary documentation, records, evidence, etc. is entered into IAPro by the Intake Member as soon as possible, and then is subsequently reviewed by the investigator promptly.
4. Ensures that no conflicts, actual or perceived, exist with assignments of complaint investigations to OPR investigators.

Commander, Police Training Academy

1. Ensures that all supervisors receive four (4) hours of in-service training annually on their obligations when called to the scene by a subordinate to accept a civilian complaint about the subordinate's conduct.

APPENDICES

- A. Unified Complaint Form
- B. Complaint Intake Flow Chart

ASSOCIATED POLICIES

- Policy 302, *Rules and Regulations*
Policy 304, *Suspension Procedures*
Policy 307, *Civilian Review Board Complaint Procedures*
Policy 308, *General Disciplinary Process*
Policy 310, *Disciplinary/Failure to Appear and Traffic Matrix*
Policy 320, *Duty to Report Misconduct/Whistleblower Protection*
Policy 724, *Performance Review Board*
Policy 824, *Body-Worn Camera*
Policy 1701, *Equal Employment Opportunity and Diversity*

COMMUNICATION OF POLICY

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

APPENDIX A

Police Complaint Form – Page 1

Complaint Case Number
IAD: _____
CRB: _____
CC#: _____



Internal Affairs 410-396-2300
Civilian Review Board 410-396-3151

DRAFT 29 Mar 2018

Police Complaint or Commendation Form

I. PERSON COMPLETING THIS FORM

Do you need an interpreter? Yes No If yes, which language? _____

1. Name (First, MI, Last) <input type="checkbox"/> Anonymous Complaint/I do not want to share my name or personal information (Skip to Section III, Officer Information.)		2. Home Address Same as Mailing <input type="checkbox"/> Yes <input type="checkbox"/> No		3. City	4. State	5. Zip
6. Date of Birth (MM/DD/YYYY)		7. Age	8. Race/Ethnicity	9. Gender/Gender Identity		
10. Contact Number <input type="checkbox"/> Mobile <input type="checkbox"/> Home <input type="checkbox"/> Other		11. Other Contact Number <input type="checkbox"/> Mobile <input type="checkbox"/> Home <input type="checkbox"/> Other		12. Email Address		
13. Location of Incident		14. Date of Incident (MM/DD/YYYY)		15. Time of Incident		<input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
16. Were you directly involved in the incident? <input type="checkbox"/> Yes <input type="checkbox"/> No		17. Were you arrested during the incident? <input type="checkbox"/> Yes <input type="checkbox"/> No		18. Did you receive a ticket and/or summons for this incident? <input type="checkbox"/> Yes <input type="checkbox"/> No		
19. Were you injured during this incident? <input type="checkbox"/> Yes <input type="checkbox"/> No		20. If injured, was medical attention provided? <input type="checkbox"/> Yes <input type="checkbox"/> No				
21. If injured, please describe the injury and how it occurred in this box and in the Narrative Statement, which begins on Page 3:						

II. VICTIM INFORMATION (If different from person completing this form)

22. Victim's Name (First, MI, Last) <input type="checkbox"/> The person completing this form is the victim. (Skip to Section III, Officer Information.)		23. Home Address Same as Mailing <input type="checkbox"/> Yes <input type="checkbox"/> No		24. City	25. State	26. Zip
27. Date of Birth (MM/DD/YYYY)		28. Age	29. Race/Ethnicity	30. Gender/Gender Identity		
31. Contact Number <input type="checkbox"/> Mobile <input type="checkbox"/> Home <input type="checkbox"/> Other		32. Other Contact Number <input type="checkbox"/> Mobile <input type="checkbox"/> Home <input type="checkbox"/> Other		33. Email Address		

Police Complaint Form – Page 2

III. OFFICER INFORMATION (To the best of your knowledge)

34. Officer's Name (First, MI, Last)		35. Assignment/Police District		36. <input type="checkbox"/> On Duty <input type="checkbox"/> Off Duty <input type="checkbox"/> Unknown		37. <input type="checkbox"/> Uniformed <input type="checkbox"/> Plainclothes		38. <input type="checkbox"/> Marked Vehicle <input type="checkbox"/> Unmarked Vehicle <input type="checkbox"/> Other	
39. Age	40. Race/Ethnicity	41. Gender	42. Badge#	43. Rank					
44. Names of Other Officers Involved									

IV. WITNESS INFORMATION (If applicable)

45. Witness's Name (First, MI, Last)		46. Home Address			47. City	48. State	49. Zip
		Same as Mailing <input type="checkbox"/> Yes <input type="checkbox"/> No					
50. Date of Birth (MM/DD/YYYY)		51. Age	52. Race/Ethnicity		53. Gender/Gender Identity		
54. Contact Number <input type="checkbox"/> Mobile <input type="checkbox"/> Home <input type="checkbox"/> Other		55. Alternate Contact Number <input type="checkbox"/> Mobile <input type="checkbox"/> Home <input type="checkbox"/> Other			56. Email Address		

V. MEDIATION

<p>Are you interested in mediating this complaint? Mediation offers a safe space for complainants and police officers to discuss and resolve the complaint in a fair and impartial way by creating understanding and actively participating in finding a solution. If mediation is successful, no disciplinary action will be taken against the police officer.</p>		
<input type="checkbox"/> Yes, I am interested in mediating this complaint	<input type="checkbox"/> No, I am uninterested in mediating this complaint	<input type="checkbox"/> I do not know/I need more information about mediation

VI. SIGNATURE OF PERSON COMPLETING THIS FORM

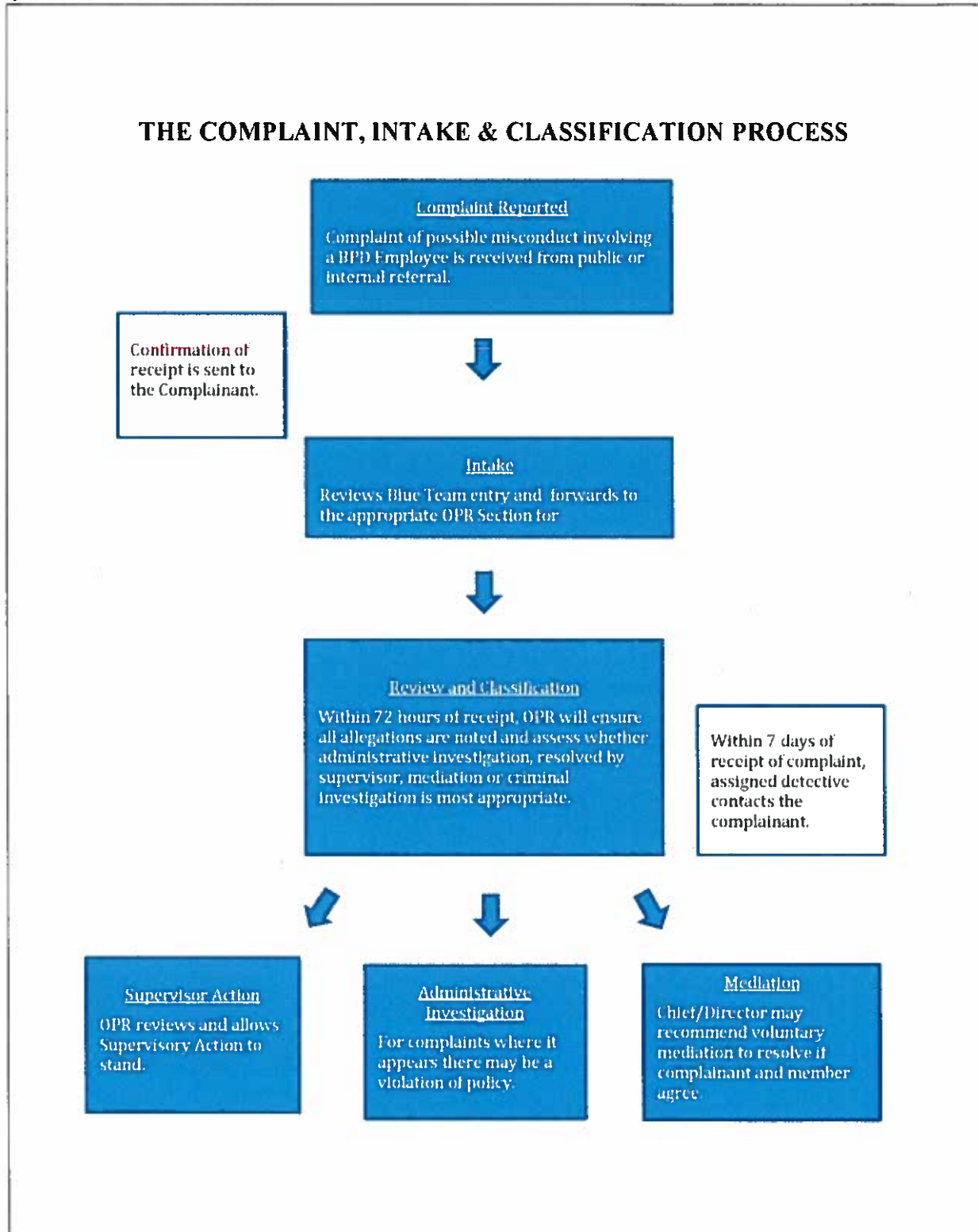
I understand that this statement will be submitted to the Baltimore Police Department/Civilian Review Board and will be the basis for an investigation. Further, the facts contained in my narrative statement are true to the best of my knowledge and belief. In addition, I declare and affirm that my statement has been made by me voluntarily without persuasion, coercion, or promise of any kind.

Please Print Name: _____

Signature _____

Date: _____

Complaint Intake Flow Chart



Policy 720



Subject

INTERACTIONS WITH LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER/QUESTIONING (LGBTQ) INDIVIDUALS

Date Published

DRAFT 3 July 2018

Page

1 of 11

By Order of the Police Commissioner

POLICY

It is the policy of the BPD not to discriminate against anyone on the basis of actual or perceived Gender Identity, Gender Expression, or Sexual Orientation in the performance of law enforcement duties or the delivery of police services. BPD members will interact with all members of the public, including LGBTQ individuals, in a respectful and professional manner and shall treat all individuals equally regardless of Gender Identity, Gender Expression, or Sexual Orientation. Discrimination because of Sexual Orientation, Gender Identity, or Gender Expression produces untold anxieties, mental anguish, and human suffering, not only in the victims of discrimination themselves, but also among their loved ones. This policy should be read in conjunction with Policy 317, *Fair and Impartial Policing*.

DEFINITIONS

Gender Expression — An individual's characteristics and behaviors (such as one's name, pronoun, appearance, dress, mannerisms, speech patterns, and body characteristics) that may express one's Gender Identity.

Gender Identity — An individual's deeply held internal knowledge or sense of being male, female or another gender which may or may not correspond to the individual's body or assigned sex at birth. Gender Identity may or may not be visible to others or expressed outwardly through a person's chosen pronouns, haircut, dress, behavior or voice.

Gender Expansive — An umbrella term used to describe a wide range of variations in physical appearance, characteristics, behaviors, and internal, deeply held senses of gender that do not conform to traditional societal expectations of male or female. This includes Nonbinary Gender Identities, meaning an individual identifies as androgynous (both male and female), between male and female, neutral, or not having a Gender Identity.

Gender Transition — Refers to the period during which a person takes steps to change their physical characteristics and/or Gender Expression to be consistent with their Gender Identity. It can include changing their name, taking hormones, having surgery or changing legal documents such as a driver's license. Gender Transition is a deeply personal matter that frequently involves difficult financial, medical, and other personal decisions. Members must always respect a person's stated Gender Identity regardless of how the member perceives the person's Gender Expression.

Intersex — A person whose sexual or reproductive anatomy or chromosomal patterns does not seem to fit typical definitions of male or female. People with Intersex conditions should not be assumed to be Transgender.

LGBTQ — A common abbreviation that refers to the lesbian, gay, bisexual, Transgender and queer/questioning community. Intersex and Gender Expansive individuals are included whenever the LGBTQ acronym is used in this policy. Members should be aware that while some LGBTQ individuals may Self-Identify and refer to themselves as queer, the term has historically been negative and may be considered offensive if used by individuals who do not Self-Identify as LGBTQ.

LGBTQ Liaison — The BPD's official point of contact to the LGBTQ community and LGBTQ members of the BPD.

Nonbinary/Gender Fluid — An adjective that describes a person who does not identify as either a man or a woman, but identify their gender as encompassing multiple genders or as outside the man/woman system of classification.

Self-Identify — To recognize or establish oneself as being a particular person or possessing a certain characteristic, or to associate oneself with a specified group or belief system. For the purposes of this policy, the term refers to an individual's stated Gender Identity or Sexual Orientation.

Sex Assigned at Birth — A decision made by medical professionals at the time of a person's birth in order to assign someone's sex as male, female, or Intersex, typically based on the person's anatomy.

Sexual Orientation — A term to describe an individual's attraction to people of the same and/or different sex. Examples of sexual orientation may include heterosexual, bisexual, gay, and lesbian.

Transgender — A term describing an individual whose Gender Identity is different than those typically associated with the sex they were assigned at birth. The term Transgender is an adjective. It is appropriate to say "Transgender people," but saying "some Transgenders" would often be viewed as disrespectful. A Transgender woman is someone whose Gender Identity is female and was assigned male at birth, and a Transgender man is someone whose Gender Identity is male and was assigned female at birth. Not all individuals who consider themselves Transgender take steps to alter their body in order to make it match their Gender Identity.

DIRECTIVES

Respectful Interactions and Non-Discrimination

1. BPD members shall interact with all members of the public in an unbiased, fair, and respectful manner.
2. All requests for service or complaints generated by or involving LGBTQ individuals shall be investigated in accordance with departmental policies.
 - 2.1. A BPD member shall not fail to respond to a call for service or a complaint on the basis of the actual or perceived Gender Identity, Gender Expression, and/or Sexual Orientation of the caller or complainant.

- 2.2. When responding to calls for service relating to domestic violence, assault, harassment or other concerns, BPD members shall not make assumptions about which person(s) may be victim and/or suspect based on their Gender Identity, Gender Expression, and/or Sexual Orientation. See Policy 711, *Domestic Violence*.
- 2.3. Members shall not take law enforcement action based on information from members of the public that they know or should know is the product of, or motivated by, biased based on actual or perceived Gender Identity, Sexual Orientation, or Gender Expression.
3. BPD members shall use names, pronouns and titles of respect as requested, expressed or clarified by the person with whom he/she is interacting (e.g., "she, her, hers" for a person who Self-Identifies as female; "he, him, his" for a person who Self-Identifies as male). Some people, usually those who identify as Nonbinary or Gender Fluid, may prefer the singular use of "they, them and their" as pronouns. In no circumstances shall BPD members refer to a person as "it" or "a he/she."
 - 3.1. If uncertain of the individual's Gender Identity, and if necessary to the interaction, respectfully ask for clarification.
 - 3.2. Proof of the person's Gender Identity, such as an identification card, will not be required. BPD members will respect and use the name, title, or pronoun used by the person. Members should be aware that changing one's identification documents to match their Gender Identity may be difficult or impossible due to legal complications, finances, or concerns for personal safety.
 - 3.3. BPD members shall not demean or retaliate against anyone for clarifying the name or pronouns that he/she/they would prefer members to use.

Stops, Searches, and Arrests of LGBTQ Individuals

1. BPD members shall not request identification from or otherwise initiate contact based on actual or perceived Gender Identity, Gender Expression, or Sexual Orientation.
2. BPD members shall recognize that Gender Identity, Gender Expression, and Sexual Orientation do not constitute reasonable suspicion, probable cause, or evidence that a person has engaged in any crime.
3. BPD members are **prohibited** from considering, to any extent or degree, a person's actual or perceived Gender Identity or Sexual Orientation when taking, or refraining from taking, law enforcement action, including in the following circumstances:
 - 3.1. As a reason to stop, question, search or arrest that individual,
 - 3.2. As a basis or component of a reasonable suspicion or probable cause determination, or
 - 3.3. As evidence that the individual is, has, or is about to engage in a crime, including, but not limited to, prostitution or lewd conduct, loitering for the purpose of prostitution, or similar crimes or civil infractions.

NOTE: A person's Gender Identity or Sexual Orientation is not a physically observable trait, and cannot be part of a reliable and trustworthy physical description of a specific suspect.

- 3.4. BPD members are prohibited from considering a person's Gender Expression—that a person expresses their gender as a man, a woman, or as Gender Expansive—as the sole basis in taking, or refraining from taking, law enforcement action, including in making a reasonable suspicion or probable cause determination, except as part of a reliable and trustworthy description of a specific suspect in an ongoing investigation, where that description also includes other appropriate non-demographic identifying factors.

NOTE: The credibility and basis of knowledge of the person providing a suspect description are important when determining whether a suspect description is reliable and trustworthy. Members must be aware that information provided to the police by the public may itself be the product of, or motivated by, the bias or assumptions of members of the public, and unreliable. An anonymous tip alone is seldom sufficiently reliable, without further information obtained through personal observation or from a known, reliable source. For example, if the information in the anonymous tip is corroborated by a BPD member's subsequent view of that individual in or near the reported location moving in the reported direction, or participating in the alleged conduct, the reliability of the tip would be enhanced. Additionally, a known informant who has provided accurate tips on prior occasions is generally considered reliable.

4. If a weapons pat-down or search is necessary, it shall be conducted in accordance with departmental policy. See Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs and Searches*, and Policy 1013, *Strip Searches and Body Cavity Searches*.
 - 4.1. Under no circumstances shall BPD members conduct a weapons pat-down or search someone to view the person's anatomy. No persons shall be subject to more invasive weapons pat-down or search procedures on the basis of their Gender Identity, Gender Expression or Sexual Orientation.
 - 4.2. Absent exigent circumstances, when conducting weapons pat-downs or other searches of a person, members will 1) honor the person's preference about the gender of the member conducting the search; and 2) in the absence of a stated preference, the Gender Identity of the person being searched shall be consistent with the Gender Identity of the member conducting a search.
 - 4.3. When in doubt regarding any search of an LGBTQ individual, consult a supervisor prior to conducting the search.
 - 4.4. Certain items – such as prosthetics, clothing, wigs, and cosmetic items – may be central to a person's Gender Identity. As such, requests to remove identity-related items shall be consistent with requirements for the removal of similar items for non-LGBTQ individuals.

EXAMPLE: If a BPD member would not request the removal of a wig by a non-Transgender woman, then the member shall not request the removal of a wig by a Transgender woman.

5. BPD members are prohibited from inquiring about the intimate details of an individual's sexual practices, anatomy, or gender-related medical history.

6. BPD members should be aware that a transgender person's possession of needles may be indicative of prescribed hormone treatment and/or therapy and is not necessarily indicative of illegal drug possession or use or possession of drug paraphernalia.
7. BPD members shall not use the possession of condoms as a basis or component of a reasonable suspicion or probable cause determination for a prostitution or sex-related offense. Members will not seize unused condoms except when they are evidence in a criminal investigation. If an individual who is arrested is in possession of condoms, and the condoms are not evidence in a criminal investigation, these shall be inventoried as personal property to be returned to the individual upon release.

Transportation of LGBTQ Individuals

1. If it is necessary to transport an individual whose Gender Identity differs from the member's, it shall be done in accordance with departmental policy. See Policy 503, *Transportation of Passengers In Departmental Vehicles*.
2. In accordance with Policy 1114, *Persons in Police Custody*, when transporting a person in police custody, males and females shall not be transported in the same compartment of a vehicle.
 - 2.1. If the vehicle contains only one compartment used for transporting persons in custody, BPD will use separate vehicles to transport males and females.
 - 2.2. Transgender, Intersex, and/or Gender Expansive individuals shall be transported with other arrestees of the same Gender Identity and Expression, as determined by the individual, unless the individual expresses a safety concern or a BPD member identifies a safety concern, in which case the individual shall be transported alone.
 - 2.3. Refer to Policy 1114, *Persons in Police Custody*, for full guidance on transporting persons in police custody.

Bathroom Use

1. Individuals shall not be stopped, questioned, or arrested for using a gender-segregated or single-sex restroom, including in bus stations or in shelters, based to any extent or degree on actual or perceived their Gender Identity, Sexual Orientation, or Gender Expression.

NOTE: There is nothing inherently suspicious or criminal about a person using a restroom, including a restroom that does not match what a BPD member believes to be the person's Gender Expression. If a member perceives that a person is using a gender-segregated or single-sex restroom that is not consistent with the person's Gender Expression, the member is prohibited from considering that factor, to any extent or degree, in deciding to take law enforcement action against the person. A member may, however, take law enforcement action against the person based on personal knowledge or reliable and trustworthy information that establishes reasonable suspicion or probable cause that the person is or has engaged in criminal activity.

2. When safe and appropriate under the circumstances and while in BPD custody, Transgender, Intersex and Gender Expansive individuals shall be allowed to use the restroom in accordance

with their Gender Identity. If, however, an individual has safety concerns with using the restroom, that individual may use the restroom he or she feels will be safest for that person.

Youth

1. BPD members shall respect the privacy of juveniles and shall not disclose information they discover about the juvenile's Gender Identity or Sexual Orientation to their parents or guardians, except 1) with the youth's express consent; 2) where required by law; or 3) as it directly relates to the reason for the youth's detention. BPD members should consult with BPD Legal Affairs before disclosing this information or responding to a request to disclose this information. Disclosing this information may put the youth at increased risk for violence or rejection in the home.
2. BPD members shall seek to determine if youth feel safe returning to their parents or guardians. If youth express legitimate concerns for their safety, BPD members shall take the youth to Child Protective Services or another social service agency serving homeless and/or LGBTQ youth.

NOTE: LGBTQ youth are at increased risk of homelessness as a result of being forced out of their homes or running away from their homes due to rejection, abuse, or conflict over the youth's Gender Identity or Sexual Orientation.

LGBTQ Crime Victims

1. If it is known to a BPD member that an individual involved in a Part I crime is a member of the LGBTQ community, the BPD member shall contact the BPD's LGBTQ Liaison via the Communications Unit.
2. If an incident could be a hate-bias incident, meaning that it is or appears to be motivated all or in part by the victim's Gender Identity, Gender Expression, or Sexual Orientation, BPD members shall:
 - 2.1. Follow the required actions in Policy 815, *Hate Crimes*.
 - 2.2. Contact the BPD's LGBTQ Liaison via the Communications Unit.

Reporting Requirements

1. When completing an incident report or other Departmental forms, BPD members shall use the name, pronoun and Gender Identity as expressed or clarified by the individual. Members shall document an individual's name and pronoun on Departmental forms under spaces for "Legal Name" and "Name Currently Used (if Different)" and "Pronoun Used" and shall use that name and pronoun when referring to that person while in police custody. Members shall not consider or document the name an individual currently uses as an "alias" or "nickname."
2. Information about an individual's Transgender status should be documented only to the extent that the information is relevant and necessary to the investigation or other law enforcement actions (e.g., if a Transgender person perceived that he/she was targeted for being a Transgender person).

3. BPD members shall send a copy of all reports related to any incident involving an LGBTQ individual, if it is known to the member, to BPD's LGBTQ Liaison at: LGBT@BaltimorePolice.org.
4. If an incident occurred in or near an establishment that a BPD member knows to be frequented or owned by a member(s) of the LGBTQ community, the member shall send a copy of all reports related to the incident to the BPD's LGBTQ Liaison. The LGBTQ Liaison serves as an extra connection and support to victims of crime, reinforces a proper police response to these incidents and helps to problem-solve concerns or trends related to the LGBTQ community that arise from these incidents.
5. All members have an affirmative duty to report any member conducting an act that violates this policy. **Failure to report may subject a member to disciplinary action.** See Policy 320, *Duty to Report Misconduct/Whistleblower Protection*.

Accepting Complaints from LGBTQ Individuals

1. If a person alleges discriminatory policing and/or would like to make a complaint while on the scene of an incident, the BPD member must inform his/her supervisor, in accordance with Policy 306, *Complaint Intake and Classification Process*.
2. No BPD member may interfere with, hinder, or obstruct a person from making a complaint.
3. When an individual requests a complaint form, the BPD member must supply the form.
4. All BPD members must provide their name and badge number upon request by any individual.
5. When the complaint Intake Member confirms receipt of a complaint of acts that may violate this policy, he/she shall offer to connect the complainant to the LGBTQ Liaison to discuss the complaint, the complaint process, or this policy.

NOTE: Refer to Policy 306, *Complaint Intake and Classification Process*, for further guidance on procedures involving citizen complaints.

Supervisory Requirements

1. Supervisors shall ensure LGBTQ individuals are treated in a respectful and professional manner.
2. Supervisors shall provide guidance and mentorship to subordinates around treating all persons, including LGBTQ individuals, in a non-discriminatory and respectful manner.
3. If allegations arise that a BPD member in the supervisor's command has treated an LGBTQ individual with bias, prejudice or in a discriminatory manner, or otherwise departed from this policy, the supervisor shall contact the Office of Professional Responsibility (OPR).
 - 3.1. If a supervisor is called to the scene where a member of the LGBTQ community would like to make a complaint against a member, the supervisor shall respond to the scene and assist the individual with filling out a Police Complaint or Commendation Form. See Policy 306, *Complaint Intake and Classification Process*, for complete guidance on receiving complaints.

4. In accordance with Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches*, supervisors shall review all documentation for investigative stops, weapons pat-downs and searches for completeness and adherence to law and policy within 72 hours of when the investigative stop, weapons pat-down or searches occurred.
 - 4.1. Supervisors shall document and report:
 - 4.1.1. Investigative stops that appear unsupported by reasonable articulable suspicion, or that otherwise violate BPD policy;
 - 4.1.2. Searches that appear to be without legal justification or are in violation of BPD policy;
 - 4.1.3. When a search resulting in the recovery of contraband appears to be unsupported by probable cause; and
 - 4.1.4. Stops or searches that, while complying with law and policy, indicate a need for corrective action or review of agency policy, strategy, tactics, or training.
5. Supervisors shall confirm that the LGBTQ Liaison receives all reports of incidents involving (a) individuals whose membership in the LGBTQ community is known by an individual BPD member or (b) places known to be associated with or owned by members of the LGBTQ community.
6. To enable the LGBTQ Liaison to enhance community outreach in the LGBTQ community in Baltimore, supervisors shall ensure the BPD's LGBTQ Liaison is notified via the Communications Unit when an incident involves an individual or individuals from the LGBTQ community and either is determined to be a Part I crime or could be considered motivated by hate-bias.

LGBTQ Liaison

BPD's LGBTQ Liaison (the Liaison) serves as connection point between BPD and the LGBTQ community. He/she collaborates with the LGBTQ community on events and issues of interest, supports BPD's service to the LGBTQ community, and monitors LGBTQ-related crime responses. BPD shall ensure that the LGBTQ Liaison's workload permits them to meet all of their responsibilities under this policy. BPD shall maintain a profile of the LGBTQ Liaison and their responsibilities under this policy on BPD's website (<https://www.baltimorepolice.org>).

1. The Liaison is stationed in the Youth and Community Division.
 - 1.1. The Liaison directly reports to the Police Commissioner. Information reported includes:
 - 1.1.1. Serious incidents involving individuals known to be LGBTQ or businesses known to be affiliated with the LGBTQ community,
 - 1.1.2. Concerns from the LGBTQ community,
 - 1.1.3. Trainings conducted within the community and within the Department,
 - 1.1.4. Upcoming LGBTQ community events.

- 1.2. The Liaison meets with the Police Commissioner every other month to discuss the BPD's work with the LGBTQ community and any incidents of interest to the BPD command.
2. The Liaison serves as a support to BPD members to ensure BPD's appropriate response to the LGBTQ community and compliance with this policy.
 - 2.1. The Liaison is available to provide support by phone to members that may have questions about this policy and/or navigating specific situations involving LGBTQ individuals.
 - 2.2. In certain instances of serious incidents involving LGBTQ individuals, the Liaison may report to the scene of the incident to provide guidance, support or expertise.
 - 2.3. The Liaison may assist with some Office of Professional Responsibility (OPR) complaints related to LGBTQ members. This could include: ensuring a complaint was received by OPR, finding out the status of a complaint, facilitating communication with the complainant, etc.
 - 2.3.1. The Liaison does not have access to confidential files or information maintained at OPR.
 - 2.3.2. Information learned about specific incidents leading to complaints by LGBTQ community members helps the Liaison tailor his/her trainings to BPD members by providing real scenarios for training purposes.
3. The Liaison serves as a point of contact with the LGBTQ community, associations, businesses, civic meetings, and local and national LGBTQ organizations.
 - 3.1. The Liaison may provide personal assistance to LGBTQ individuals who have interfaced with the BPD or are seeking assistance from the BPD. This could include, but is not limited to, assisting community members with making complaints with Internal Affairs, connecting individuals to the proper division within the BPD, supporting individuals who may be concerned about contacting the police, among other assistance.
 - 3.2. The LGBTQ Liaison shall be available to discuss complaints of violations of this policy, the complaint process, or this policy with complainants. If the Liaison finds it necessary, BPD shall allocate the LGBTQ Liaison at least two hours per complaint to prepare for and hold such discussions without interference.
 - 3.3. The Liaison participates in and acts as the BPD point-person for events meant for and organized by LGBTQ individuals in the community and beyond. If the Liaison finds it necessary, BPD shall allocate the LGBTQ Liaison at least four hours per month to prepare for and attend such events without interference.
 - 3.4. The Liaison serves as the connection point between the BPD and the Police Commissioner's LGBTQ Advisory Council, described below.
 - 3.5. The LGBTQ Liaison shall inform the LGBTQ community that Policy 720, *Interactions with LGBTQ Individuals* prohibits members from discriminating based on actual or perceived Gender Identity, Gender Expression, or Sexual Orientation, and how community members

may make complaints of such discrimination. See Policy 306, *Complaint Intake and Classification Process*.

4. The Liaison shall provide support for LGBTQ members of the BPD when specific member concerns arise.
5. The Liaison provides diversity trainings to BPD members, and assists with recruitment efforts in the LGBTQ community.
6. The Liaison shall provide an annual report to the Police Commissioner. This report details all of the work accomplished by the Liaison for the year.
7. For the yearly training on Fair and Impartial Policing, the LGBTQ Liaison shall provide (1) data and trends relating to complaints of discriminatory policing based on Gender Identity, Gender Expression or Sexual Orientation and (2) noteworthy issues involving LGBTQ matters within the LGBTQ community. See Policy 317, *Fair and Impartial Policing*. BPD shall allocate the LGBTQ Liaison at least 12 hours per year to prepare such information without interference.

Chief, Office of Professional Responsibility

1. The Chief of OPR shall ensure complaints alleging discrimination or disparate treatment based on the complainant's actual or perceived Gender Identity, Gender Expression or Sexual Orientation are properly classified by OPR.

The Chief of OPR shall track data related to discriminatory policing based on these complaints, and address trends noted with particular members or districts/divisions/units. The Chief of OPR shall report this data to the LGBTQ Liaison.

Compliance

1. Violations of this policy will not be tolerated and will result in discipline, re-training, counseling or other remedial intervention as appropriate.
2. BPD members who engage in, ignore, or condone Discriminatory Policing will be subject to discipline.
3. Commanders and supervisors who fail to respond to, document, or review allegations that this policy has been violated will be subject to discipline.

LGBTQ Advisory Council

The purpose of BPD's LGBTQ Advisory Council (the Council) is to promote mutual understanding, respect, education and communication between the LGBTQ community and BPD.

1. The Council advises BPD on issues of concern, and shares insights and recommendations to ensure BPD's services are responsive to the needs of the LGBTQ community in Baltimore City.
2. The Council is comprised of individuals from various community organizations supporting and representing the LGBTQ community in Baltimore City.

3. The Council convenes 10 times per year, 5 of which are with the Police Commissioner.
4. The goals of the Council are the following:
 - 4.1. Collaborate with BPD to improve public safety for the LGBTQ community.
 - 4.2. Ensure open communication that builds trust between the LGBTQ community and BPD.
 - 4.3. Eliminate phobias, discrimination and stereotypes that negatively affect the relationship between BPD and the LGBTQ community through training and education, policy review, collaboration, and positive interactions.
 - 4.4. Integrate LGBTQ concerns and cultural competency into the BPD internal trainings
 - 4.5. Increase BPD's recruitment of members from the LGBTQ community.
 - 4.6. Expand the LGBTQ community's understanding of BPD's policies and practices.

ASSOCIATED POLICIES

Policy 306,	<i>Complaint Intake and Classification Process</i>
Policy 317,	<i>Fair and Impartial Policing</i>
Policy 320	<i>Duty to Report Misconduct/Whistleblower Protections</i>
Policy 503,	<i>Transportation of Passengers in Departmental Vehicles</i>
Policy 711,	<i>Domestic Violence</i>
Policy 815,	<i>Hate Crimes</i>
Policy 1013,	<i>Strip Searches and Body Cavity Searches</i>
Policy 1112,	<i>Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches</i>
Policy 1114,	<i>Persons in Police Custody</i>

RESCISSION

Remove and destroy/recycle Policy 720, *Lesbian, Gay, Bisexual and Transgender Involved Incidents*, dated 15 November 2016.

COMMUNICATION OF POLICY

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

Policy 302



RULES AND REGULATIONS

DRAFT 3 July 2018

Page

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By Order of the Police Commissioner

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I. POLICY

- 1. Establish Rules.** Consistent with state, local and federal laws, it is the policy of the Baltimore Police Department (BPD) to establish rules and regulations for the good of the BPD, its members, and the community.
- 2. Follow the Law.** BPD employees are responsible for adhering to federal, state, and local laws, BPD policies, BPD trainings, and any applicable collective bargaining agreements and relevant labor laws.
- 3. Regulate Conduct.** Rules and Regulations are necessary for the achievement of BPD's goals. Primary among these goals is a requirement that all members adopt a general standard of conduct both on and off-duty consistent with the professional standards of the law enforcement community.
- 4. Exercise Good Judgement.** All members, both sworn and civilian, shall be thoroughly familiar with the rules in this policy and other BPD policies and adhere to their requirements. Although these rules cannot and do not cover every specific act of conduct or specific situation which a member may face, their fundamental aim is to ensure optimum professionalism and safety, and shall be the prevailing guideline for all behavior. Members are required to exercise good judgment

and their common sense, which, together with the highest degree of cooperation by those entrusted with law enforcement, is essential to effective police work.

5. **Disciplined and Efficient.** The development of a well-disciplined and efficient police department, which has the confidence and respect of the public, can only be accomplished when each member realizes that every action, whether it is a part of one's official duty or private life, is closely observed by the public. Acts of misconduct, unprofessional behavior, or poor police tactics not only reflect on the member as an individual, but on the Department as a whole. Any acts that even cast doubt on an officer's integrity, honesty, judgement, or character brings discredit to the Department and impairs its efficient and effective operation.
6. **Penalties.** Violations of this and other BPD policies may subject a member to discipline. Infractions of BPD rules and regulations resulting in discipline shall be recorded as provided in established BPD procedures.

II. POLICE COMMISSIONER'S AUTHORITY AND RESPONSIBILITY

1. The Omnibus Bill of 1966, known as Subtitle 16, Police Department, of the Code of Public Local Laws of Baltimore City, being Article 4 of the Code of Public Local Laws of Maryland, provides the Police Commissioner with all the powers, rights and privileges attending the responsibility of management of the Baltimore Police Department.
2. The Omnibus Bill grants the Police Commissioner the specific authority to do the following, among other functions:
 - 2.1. Regulate attendance, conduct, training, discipline and procedure for all members of the Department and to make all other rules, regulations and orders as may be necessary for the good of the Department and of its members.
 - 2.2. Suspend, amend, rescind, abrogate or cancel any rule, regulation, order or other Department policy adopted by the Police Commissioner (PC), or by any former PC, and to adopt all such other reasonable rules, regulations and orders as the PC may deem necessary to enable the Department to effectively discharge the duties imposed upon it by this subtitle.
3. The Police Commissioner has the power, consistent with law, to impose punishment as deemed appropriate under the circumstances for violations of the rules and regulations of the Department. Such punishment may include, but is not limited to, suspension from duty, fine or forfeiture of pay, reduction in rank, transfer, or dismissal from the Department.
4. The Police Commissioner may place charges against a member of the Department consistent with established procedures for any violation, either by omission or commission, of the Departmental rules, regulations or procedures, or for any conduct or omission detrimental to the good order, efficiency, or discipline of the Department. This rule shall apply in every case, even though such offense may not be specifically defined or set out in the rules, regulations, or procedures of the Department.
5. The Police Commissioner reserves the right to alter, amend or repeal any of these rules and regulations or to make additions thereto as circumstances may require.

- 5.1. If the occasion demands, the PC may issue verbal or written orders which shall have the same force and effect as these rules and regulations.

III. RULES AND REGULATIONS

A. RULE 1: CONDUCT

Any breach of the peace, neglect of duty, misconduct or any unbecoming conduct or omission on the part of any member of the Department, either within or outside the City of Baltimore, and whether on or off duty, which tends to undermine the good order, efficiency or discipline of the Department, or which reflects discredit upon the Department or any member thereof, or which is prejudicial to the efficiency and discipline of the Department, shall be considered conduct unbecoming a member of the BPD. Any such unbecoming conduct, even though these offenses may not be specifically enumerated or laid down, are subject to disciplinary action by the Police Commissioner, unless such conduct is protected by the Constitution of the United States, the Maryland Declaration of Rights, or any other federal, state or local law.

1. Members shall be professional, civil and orderly at all times, and shall refrain from coarse, profane, or insolent language.
2. No member shall engage in any unbecoming conduct, whether verbal, written, by gesture, or any other means, that treats a person differently based on that person's race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, disability, or social status. (See Policy 317, *Fair and Impartial Policing* and Policy 720, *Interactions with Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Individuals* for further guidance)
 - 2.1. No member shall discriminate against any person based on race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, disability or social status.
 - 2.2. Commanding officers who receive a complaint or hear a concern made about potential discrimination or harassment, or who observe or learn of information about potential discrimination or harassment in some other manner, must report that information to the Equal Opportunity and Diversity Section (EODS).
 - 2.3. It is the duty of employees who have observed or are aware of others who have engaged in bias-based policing to specifically report such incidents to a supervisor, providing all information known to them, before the end of the shift during which they make the observation or become aware of the incident.
 - 2.4. No member shall retaliate against any person or other member who exercises their right to complain of acts of discrimination.
3. Members will meet the public with courtesy and consideration. Questions must be answered civilly and courteously. Members will not use facetious expressions while talking to the public.
4. Members have a duty to promote good public relations by giving assistance when it is required; by the impartial administration of the law; and by clean, sober, and orderly habits.

5. Sworn members will carry their badge of authority at all times while on-duty and will furnish their name, badge number and sequence number to any person, upon request.
6. Members will be prohibited from associations with certain individuals and establishments.
 - 6.1. Members shall not knowingly commence or maintain a relationship with any person who is under criminal investigation, indictment, arrest, or incarceration by this or another law enforcement or criminal justice agency or persons whom they know, should know, or have reason to believe are involved in criminal activity, except as necessary for the performance of official duties or where unavoidable or impractical because of familial or marital relationships. In such cases where regular household, physical, or telephone contact is unavoidable, the member shall inform his or her supervisor of the relationship.
 - 6.2. Members shall not knowingly engage in social or romantic relationships with confidential informants or victims or witnesses involved with active investigations.
 - 6.3. Except in the performance of official duties, members shall not knowingly enter any establishment in which the law is knowingly violated.
7. Members shall not participate or interfere in investigations involving family members or persons with whom they have a close personal or business relationship.
8. Members are prohibited from using unnecessary force.
 - 8.1. Members shall consult Policy 1115, *Use of Force* for the full Use of Force policy.
9. Members, while riding for free on any type of public transportation, are not permitted to be seated while other passengers are standing.
10. Members will fulfill their personal financial obligations.
11. Members shall not attempt to influence the Police Commissioner for the purpose of securing promotion or transfer, or to avoid the penalties for reprehensible action or conduct.
12. Any member of the Department, who being present at or having cognizance of any mutinous, seditious, rebellious or reactionary movement within the Department, must use the utmost effort to suppress same, or knowing or having reason to believe that such movement is to take place, must give information thereof to their commanding officer without delay. Commanding officers are required to report that information up the chain of command.
13. Members will familiarize themselves with, and comply with, the policies that concern a member's communications to the public, whether on or off-duty. All members shall comply with:
 - 13.1. Policy 601, *Member Confidentiality Obligations and Media Releases*,
 - 13.2. Policy 602, *Public Speech*, and
 - 13.3. Policy 604, *Social Media*.

14. Members will not, at any time, be insubordinate or disrespectful to a superior.
15. Members will not disobey any lawful command or order, either verbal or written, of any superior or other member designated to command.
16. Members will not threaten, strike, or assault any other member. Members who aid, abet, or incite any altercation between members shall be held responsible along with those actually involved.
17. Members will not make, orally or in writing, any false statement, or misrepresentation of any material fact, or make any material omission of fact, including but not limited to statements or omissions made with the intent to mislead any person or tribunal.
18. Members will be held strictly responsible for the proper performance of their duties.
 - 18.1. Members will maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner which will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department.
 - 18.2. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the member's rank, grade and/or position; the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; absence without leave; or unnecessary absence from the assigned patrol during a tour of duty.
 - 18.3. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance:
 - 18.3.1. Repeated less than satisfactory evaluations or a written record of infractions of the rules, regulations, directives or orders;
 - 18.3.2. Repeated inability to perform the duties of a police officer in a satisfactory manner;
 - 18.3.3. The abuse of alcohol or prescription drugs, the use of illegal drugs, or long-term necessary use of legal medications that impair a member's ability to safely and satisfactorily perform his or her law enforcement duties;
 - 18.3.4. The inability to make a forcible arrest, drive a vehicle under emergency conditions, and/or qualify with a weapon, for any reason;
 - 18.3.5. The inability to perform the essential functions required of a police officer as described herein in a safe and satisfactory manner;
 - 18.3.6. The demonstration of poor judgment that puts the officer's safety, the safety of his or her colleagues, or the safety of any citizen at unreasonable or unnecessary risk;
 - 18.3.7. Providing untruthful or false information, or making any material omission of fact,

including in connection with any internal investigation, court proceeding, affidavit or other legal proceeding.

19. Members shall not frequent station houses or Headquarters, except as duty requires or upon order.
20. Members must be punctual in attendance to all calls, requirements of duty, medical/psychological appointments, court appointments, and other circumstances where a time is specified.
21. Members will not feign illness, avoid responsibility, or attempt to shirk their duties.
22. Sworn members are sworn in as peace officers of Baltimore City and, as such, are considered to be on-duty or ready for duty at all times. Failure to stop and perform the necessary police duties while off-duty or on leave shall be considered neglect of duty, unless a verified excuse is accepted by a supervisor.
 - 22.1. Necessary police duties while off-duty may include, but are not limited to:
 - 22.1.1. Immediately notifying the responsible law enforcement agency,
 - 22.1.2. Causing such notification, or
 - 22.1.3. Taking direct police action.
 - 22.2. Off-duty members, both inside and outside City limits, are to first consider whether the appropriate action can be effected by the on-duty members of the responsible law enforcement agency.
 - 22.2.1. Members should become directly involved only after due consideration of the gravity of the situation, their present physical and mental ability to act in an on-duty capacity and of their possible liability, along with that of the Department and the City of Baltimore.
 - 22.2.2. Members have no powers of arrest beyond those of common citizens when outside the City of Baltimore or properties owned by the City of Baltimore.
 - 22.2.3. Whenever members assume their official role and take direct police action, they are governed by all policies, rules and regulations applicable to on-duty members.
 - 22.3. The BPD acknowledges that circumstances and events may exist when it is in the best interest of the member, Department, and community, for sworn members to refrain from personally taking official police action while off-duty.
 - 22.3.1. Consistent with this, the BPD cautions off-duty sworn members to use discretion when invoking police powers, particularly involving the use of a firearm. This in no way, however, relieves sworn members from their obligation to notify appropriate on-duty authorities and provide assistance when necessary.
23. Members in uniform on patrol duty, or at any public gathering, shall not smoke or chew tobacco.

Smoking or chewing tobacco is permitted at other times when done in an authorized location.

24. Members, while on-duty or when off-duty in uniform, shall not enter bars, taverns, or liquor establishments, except in the proper performance of their duties.
25. Members are prohibited from indulgence in intoxicating liquors while on-duty, or while off-duty in uniform. Only in cases requiring such action to carry out a duty assignment shall authority be granted to violate this rule. This authority must be given to the officer concerned by that officer's immediate superior.
 - 25.1. Habitual overindulgence is forbidden. Members, while off-duty, shall refrain from consuming intoxicating beverages to the extent that it results in obnoxious or offensive behavior which would discredit them or the BPD, or to such extent that at the time of the member's next regular tour of duty they are impaired or intoxicated and thereby unfit for duty.
26. Members will not bring any intoxicating liquor into any BPD building, boat, or vehicle, nor shall they permit same to be brought therein, except as required in the performance of police duty.
27. Members are strictly prohibited from playing cards, dice or engaging in any gambling or wagering activities on BPD property, in a BPD vehicle, while in BPD uniform or while on-duty, except as required in the performance of police duty. Members are also strictly prohibited from using BPD smart phones, laptops and other electronic devices for gambling or wagering purposes, whether on or off-duty.
28. Members are not permitted to take any employment, either full- or part-time, outside of BPD without special permission of the Police Commissioner, or consistent with the guidelines contained in Policy 1702, *Secondary Employment*.
29. Members will not accept any compensation, reward, gift, or other consideration without special written permission of the Police Commissioner.
 - 29.1. Members are directed to Subtitle 16, Police Department, Section 22, Monies in Special Fund, Subsection 3, of the Code of Public Local Laws of Baltimore City, being Article 4 of the Code of Public Local Laws of Maryland; and the Criminal Law Article of Maryland entitled, "Offering bribe to or receiving bribe by public officer; witnesses in prosecution."
 - 29.2. No member shall accept any monetary reward for the apprehension or surrender of any military personnel absent without leave (AWOL).
30. Members, in their private business transactions with persons residing or doing business on their posts or elsewhere, will not place themselves in a position which would interfere with the proper discharge of their police duties.
31. No member shall engage in secondary employment or self-employment during on-duty hours, including for-profit business activities (e.g., selling any items or services).
32. Uniformed members, when encountering the Police Commissioner and other superior officers, except those assigned to plainclothes or detective duty, and superior officers in uniform when

encountering each other, will salute in the prescribed manner. All uniformed members will also salute the Governor of Maryland and Mayor of Baltimore in the prescribed manner.

33. Members will refrain from making personal cellular telephone calls while on-duty, either in uniform or in plain-clothes capacity. When the infrequent occasion requires making a personal cellular telephone call, that communication shall be brief in duration and conducted out of public view.
34. Personal earpieces for entertainment devices are prohibited from use while on-duty, either in uniform or in plain-clothes capacity. The prohibited devices include, but are not limited to, speakers and microphones, both wired and wireless.

B. RULE 2: RECOVERED PROPERTY

Members who recover or come into the possession, custody, or control of any lost, stolen, seized, or abandoned property, including money, shall secure and handle such property or money in strict conformity with the law and the established procedure of the Department. See Policy 1401, *Control of Property and Evidence* and Policy 1402, *Management of Evidentiary Controlled Dangerous Substances*.

C. RULE 3: FIREARMS

1. Members of the Department who are authorized by law to carry firearms shall exercise the utmost care and caution in the preservation and use of such weapons. Police Officer Trainees, when off-duty, shall not wear, carry or transport a firearm until the successful completion of all Entrance Level Training, unless authorized by the Director, Police Training Academy, to meet training or other manpower and deployment needs.
2. Members shall refer to Policy 409, *Firearms Regulations* for further guidance.
3. Members must comply with Policy 710, *Level 3 Use of Force Investigations / Special Investigation Response Team*, and Policy 1115, *Use of Force*, whenever a firearm is discharged by any member of the Department, regardless of duty status, except when it is used on the range or at a departmentally sanctioned activity.
4. Use of force is governed by Policy 1115, *Use of Force*.

D. RULE 4: UNIFORMS AND EQUIPMENT

1. Members of the Department shall wear such uniforms, badges, insignia of rank, and equipment as prescribed in departmental Policy 1504, *Departmental Uniforms and Equipment*. Uniforms and service equipment as covered under that Policy are applicable to members having police powers only, and the wearing of any portion of the uniform or the use of police service equipment by civilian employees is a violation of departmental policy, unless covered by orders specifically applicable to the individual or group. No uniform or equipment shall be worn or used by members of this Department unless they conform to the prescribed specifications.
2. Members shall refer to Policy 1504, *Departmental Uniforms and Equipment* for further guidance.

E. RULE 5: LEAVE, SICKNESS, AND INJURY

Members shall, except when on authorized or medical leave, perform their prescribed tour of duty.

1. Members of the Department shall not be absent from duty without proper authority.
2. All applications from members for leave of absence shall be made on a form provided by the Human Resources Section. See Policy 1727, *Leave of Absence without Pay*; and Policy 1726, *Family Medical Leave Act*.

NOTE: Employees are not required to give their Commanding Officer Family Medical Leave paperwork. Said paperwork goes directly to the Human Resources Section.

3. While off-duty, members on an authorized leave of absence are subject to recall in the event of any emergency. Prior to taking a leave of absence, members will notify their Commanding Officers as to how they may be contacted while on leave.
4. Members who are unable to report for duty for any reason shall promptly notify their Commanding Officer, stating the reason for such failure to report. Members must personally provide that notification unless his or her medical condition makes it strictly impossible to do so. Members must provide notification of their absence as soon as they anticipate the absence and no later than the start of a member's scheduled shift.
5. Members on medical leave, or on authorized leave of absence due to a contagious disease of anyone in their home, are under the control and command of the Medical Unit and shall obey Medical Unit orders and instructions.
6. Members on medical leave of three (3) days or more will furnish their Commanding Officer with a medical certification consistent with the terms of the Memorandum of Understanding between The Baltimore City Police Department and the Baltimore City Lodge No.3, Fraternal Order of Police. Members who are on medical leave for an extended period of time may be required to be recertified for medical leave on a periodic basis.
7. While on medical leave or on light duty, members shall not engage in any secondary employment.
8. Members who sustain an injury in the line of duty shall promptly notify or cause to be notified their Commanding Officer.
9. Any Commanding Officer who believes it might be appropriate to refer a member of his or her staff for a fitness for duty review must schedule the review through Human Resources.

F. RULE 6: REPORTS AND COMMUNICATIONS

In the transaction of departmental business, all reports and communications shall be prepared and handled in accordance with the procedures of the Department.

1. Members are strictly prohibited from releasing information about the Department and its law enforcement activities subject to the terms provided in Policy 601, *Member Confidentiality Obligations and Media Releases*.
2. No member of the Department shall sign any petition as a member, except on authority of the

Police Commissioner.

3. Departmental telephone service and data plans are intended for official business only and shall not be used for personal calls, text messages, and emails. Members shall refer to Policy 604, *Social Media* for further guidance on use of departmental devices to access a social media site.
4. Members of the Department are required to report through official channels any change in their address, telephone number, or marital status within 24 hours.
5. Reports, as may be required to properly administer the affairs of the Department or to furnish information, shall be submitted in accordance with departmental procedure.

G. RULE 7: DEPARTMENTAL RECORDS

All members of the Department whose duties require them to maintain departmental records shall do so in accordance with provisions of the law and the established procedures of the Department.

1. No member or other person or persons shall have access to copy, excerpt or make a transcript from departmental records (whether printed or stored in electronic format), except where permitted by departmental procedure, or unless so directed by the Police Commissioner.
2. No member shall remove, alter or destroy any official book, document, file, electronic record or document belonging to the Department, whether contained at Headquarters, a station house, or any division of the Department, without permission from the Commanding Officer of that unit, or under due process of law.
3. No member shall access, or caused to be accessed, any criminal history records or files except in the performance of their official duties.
4. No member shall disseminate or otherwise release, or cause to be disseminated or released, any criminal history information or criminal records to any person or entity except in the performance of their official duties and as provided by law.

H. RULE 8: MISCELLANEOUS

1. Members shall not become a member of a team, club, or organization within the Police Department, unless such association has the approval of the Police Commissioner.
2. Members may not knowingly join, and are prohibited from affiliating with, any organization or body that advocates, incites, or supports criminal acts or criminal conspiracies or promotes hatred or discrimination toward racial, religious, ethnic, or other groups or classes of individuals protected by law.
3. Members are prohibited from residing in any building where intoxicating liquors are sold.
4. Members are required to notify the Director, Human Resources in writing, via official channels, when joining, re-enlisting in, or transferring to a new branch of any federal or state military organization.
 - 4.1. When notifying the Director of Human Resources, members are required to include the

following information:

4.1.1. Branch of military service;

4.1.2. Effective date;

4.1.3. Unit's name;

4.1.4. Unit's location;

4.1.5. Your military rank; and,

4.1.6. End of enlistment date.

5. Any member summonsed by the Office of the State's Attorney for Baltimore City or any other prosecutor, or before any court concerning any matter in which that member or any other member may become a defendant, must immediately report the facts in writing to the Police Commissioner through official channels.
- 5.1. Any member summonsed to testify for the defense and who has not already been summoned by the State or has received a *subpoena duces tecum* from the defense for any material or documentation whatsoever and has not already delivered the same material to the State, or who is appearing voluntarily as a witness for the defense, in any criminal proceeding, must immediately notify the Deputy State's Attorney for Operations.
- 5.1.1. Written notification of the member's Summons to Appear must be forwarded to the Chief, Legal Affairs.
- 5.1.2. The above notifications shall be made at the earliest possible time and prior to the date of appearance. When a member's appearance at a criminal proceeding is not resulting from their official duties in the case, the member may not wear his or her uniform.
- 5.2. Members must not involve themselves without departmental permission, either officially or unofficially, in any civil matter such as those pertaining to indebtedness and domestic affairs, except where the member has been summoned by regular court procedure or where it becomes necessary to prevent a breach of the peace.
6. Members shall not, directly or indirectly, refer, recommend or suggest the name of any person, firm, or corporation to any individual assisted or encountered by the member during the course of his or her law enforcement duties, with the exception that members may refer individuals in need and victims to nonprofit social welfare programs, as appropriate.
- 6.1. This prohibition includes, but is not limited to, any referral to attorneys, bondsmen, tow truck operators, and health care providers.
- 6.2. Members shall not be directly or indirectly involved with making any arrangements, agreements, settlements or compromises between (i) a person who is being questioned, investigated or charged with a criminal offense and (ii) the victim/complainant and/or any

other party/person thereto.

- 6.3. Members shall not, directly or indirectly, take or omit to take any action, or become involved in any matter, for the purpose of allowing a criminal to escape the punishment provided by law.
7. Members shall not, without proper authority, release any prisoner in their charge or through neglect or design allow any prisoners in their charge to escape. See Policy 1114, *Persons in Police Custody*.
8. No member of the Department shall file a claim, bring suit, or accept settlement for the recovery of damages sustained from any injury resulting from the performance of their official duties without prior written notification through official channels to the Police Commissioner.
 - 8.1. Personnel injured by the negligence of a third party, either in the line of duty or not, shall be required to reimburse BPD for expenses it advanced provided that such reimbursement shall be made out of the proceeds of settlement with the tortfeasor or his/her insurer.
 - 8.2. Expenses for which the BPD must be reimbursed shall consist of wages, hospital costs, doctors' fees, and any other medical expenses advanced by the Department.
 - 8.3. Reimbursement to the BPD shall be made by the claimant or his/her counsel for monies payable to the Mayor and City Council, through the Director, Fiscal Services.
9. Members shall not accept a witness fee or reimbursement for expenses incurred in connection with their official duties without reporting it, through official channels, to the Police Commissioner, and obtaining the Police Commissioner's authorization.

I. RULE 9: INTERNAL INVESTIGATION AND REPORTING OF MISCONDUCT

Members are required to adhere to all rules, regulations, directives, procedures, policies, guidelines, orders, or any other form of directive regarding internal investigations.

1. Members are required to provide full and honest cooperation with the Office of Professional Responsibility (OPR), the Equal Opportunity and Diversity Section (EODS), Compliance, Accountability and External Affairs Division (CAEAD) or any other person or entity conducting any authorized investigation within the Department.
2. Members are required to report, in accordance with established procedures, any acts, or alleged acts, of misconduct by a member including, but not limited to, discrimination, harassment, criminal conduct, misuse of or excessive force, corruption or misappropriation of property, dishonesty, or any other misconduct or activity detrimental to the operation and good order of the Department.
 - 2.1. Allegations of serious misconduct by a member shall be made to the reporting member's Commanding Officer and the Chief, OPR. Commanding Officers who receive complaints of misconduct, or who come into possession of information about potential misconduct, shall report the information via the chain of command. The LGBTQ Liaison shall be informed of any allegations or complaints of violations of Policy 720, *Interactions with Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Individuals*.

3. No member shall be dishonest with, interfere with, obstruct or hinder, nor advise any other person to be dishonest with, interfere with, obstruct or hinder, in any manner, any OPR investigation, integrity test, EODS investigation or any other form of internal investigation.
4. Any member who is arrested or charged with a criminal offense or a serious traffic violation as described in section 26-202 of the Maryland Transportation Code, or learns that he or she is the subject of a criminal investigation must immediately notify OPR.
5. A misdemeanor or felony conviction, guilty plea, finding of guilty, probation before judgment, or equivalent disposition (e.g., pre-trial diversion or ADR) shall be assumed to be an admission of the violation charged.

IV. ASSOCIATED POLICIES

Policy 304,	<i>Suspension Procedures</i>
Policy 317,	<i>Fair and Impartial Policing</i>
Policy 409,	<i>Firearms Regulations</i>
Policy 601,	<i>Member Confidentiality Obligations and Media Releases</i>
Policy 602,	<i>Public Speech</i>
Policy 604,	<i>Social Media</i>
Policy 710,	<i>Level 3 Use of Force Investigations/Special Investigation Response Team (SIRT)</i>
Policy 720,	<i>Interactions with Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Individuals</i>
Policy 1114,	<i>Persons in Police Custody</i>
Policy 1115,	<i>Use of Force</i>
Policy 1401,	<i>Control of Property and Evidence</i>
Policy 1402,	<i>Management of Evidentiary Controlled Dangerous Substances</i>
Policy 1504,	<i>Departmental Uniforms and Equipment</i>
Policy 1726,	<i>Family Medical Leave Act</i>
Policy 1727,	<i>Leave of Absence without Pay</i>

V. RESCISSION

Remove and destroy/recycle Policy 302, *Rules and Regulations*, dated 26 August 2017.

VI. COMMUNICATION OF POLICY

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



Policy 413

Subject

MOBILE FIELD FORCE

Date Published

DRAFT 3 July 2018

Page

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By Order of the Police Commissioner

POLICY

1. Individuals and groups have the right to freely organize and participate in lawful assemblies and protests in streets, in parks, on sidewalks, and in other public forums, including public forums near the object of the assembly or protest so that those assembled may be seen and heard, subject to reasonable restrictions designed to protect individuals and property and to accommodate the interests of individuals not participating in the assemblies to use the streets, sidewalks and other public ways to travel to their intended destinations and to use parks for recreational purposes. These rights are protected by the First Amendment to the United States Constitution and Article 40 of the Maryland Declaration of Rights. . To protect these rights in the face of assembled crowds, the BPD maintains a specially-trained and equipped Mobile Field Force (MFF). The MFF shall:
 - 1.1. Respect and protect First Amendment rights
 - 1.2. Preserve life
 - 1.3. Protect property
 - 1.4. Allow safe ingress and egress throughout the City
 - 1.5. Restore normal operations
2. **Decision Making.** The BPD will not make deploy MFF deployment, use force, or make any other law enforcement decisions based solely on the identities of the individuals involved in the large-scale event/incident. This applies to, but is not limited to, the following demographic categories:
 - 2.1. Race;
 - 2.2. National origin;
 - 2.3. Gender, gender identity, or gender expression;
 - 2.4. Disability or illness (physical or mental);
 - 2.5. Sexual orientation;
 - 2.6. Religion;
 - 2.7. Political ideology or affiliation;

- 2.8. Social status;
- 2.9. Veteran status;
- 2.10. Economic status;
- 2.11. Familial status;
- 2.12. HIV status;
- 2.13. Immigration status;
- 2.14. Homelessness;
- 2.15. Language ability;
- 2.16. Age;
- 2.17. Or any other protected class under state, federal, and local laws. Refer to Policy 317, *Fair and Impartial Policing*, for further guidance.

DEFINITIONS

Chemical Agents — Substances designed to irritate the eyes and mucous membranes. (e.g., CS/CN gas, PepperBall, Mk-9 Pepper Fogger, smoke, etc.).

Civil Disturbance/Unrest — A gathering or group act that constitutes a breach of the peace or any assembly of persons where there is a threat of collective violence, destruction of property, or other unlawful acts. Such a gathering may also be referred to as a riot or unlawful assembly. Only a member of BPD command of the rank of Major or above may declare an assembly to be unlawful, and the declaration will be documented in writing. If such a commander is unavailable, the declaration may be made by a Lieutenant or Captain who is serving as a shift commander/district commander.

First Amendment Assemblies/Demonstration — A lawful assembly of persons organized primarily to engage in First Amendment activity. These may or may not be scheduled events that allow for law enforcement planning, such as marches, protests and other assemblies intended to attract attention.

Incident Action Plan (IAP) — An oral or written plan containing general objectives reflecting the overall strategy for managing an incident. It may include the identification of operational resources and assignments. It may also include attachments that provide direction and important information for management of the incident during one or more operational periods.

Incident Commander (IC) — The individual responsible for overseeing the response to Civil Disturbances and/or First Amendment assemblies or demonstrations, including the development of strategies and tactics and the ordering and release of resources. The IC has overall authority and responsibility for planning and conducting incident operations and is responsible for the management of all incident operations at the incident site.

Less-Lethal Launchers/Munitions (LL) — An apprehension or restraint tool that, when used as designed and intended, is less likely to cause death or Serious Physical Injury than a conventional lethal weapon such as a firearm. Less-lethal launchers are only approved for use by certified members (e.g., Mobile Field Force (MFF), SWAT, Emergency Vehicle Unit (EVU), Firearms Training Staff, etc.).

Mass Arrest System — A system outside of normal arrest processing procedures that is activated in order to effectively and efficiently handle a high volume of arrests.

Mobile Field Force (MFF) — Members who are specially-trained and equipped to trained to use group de-escalation, negotiation, and if necessary, crowd management tactics to facilitate safe environments for public speech or respond to Civil Disturbances.

Mobile Field Force Commander — Permanent-rank supervisor responsible for the training, equipment and other logistical needs of the MFF.

Over Response — A large presence of law enforcement officers or perceived “heavy-handed” tactics. Protestors may take this as an opportunity to increase unlawful activity and accuse law enforcement of escalating the incident.

Under Response — Lack of law enforcement presence in sufficient numbers, and/or lack of a reasonably objective show of force may embolden protestors to increase their level of civil disorder due to a perception of law enforcement weakness.

GENERAL

Mobile Field Force

1. All activity by members of the Mobile Field Force shall be governed by Policy 804, *First Amendment Protected Activity*, when determining whether the member may or may not take action while a citizen is expressing his/her constitutional right to protected speech or to peaceably assemble. The guidelines herein outline the specific procedures governing this specialized unit.
2. During periods of Civil Disturbance or unlawful behavior, a disciplined and appropriate law enforcement response is necessary to successfully defuse the situation with the least amount of injury, force and damage to property. There are inherent dangers associated with an “Over Response” or an “Under Response.”

Restrictions, First Amendment Protected Activity

1. The MFF will not take any police action in retaliation for individuals lawfully exercising their right to witness, observe, record, comment on, or peacefully protest police activity. This includes retaliation by ordering individuals or groups to disperse, or by stopping, detaining, searching, arresting, issuing a citation to, or threatening to stop, detain, search, arrest or issue a citation to any individual or group.
2. MFF members shall not treat protesters differently based on the content or viewpoint of their legally protected speech the identities or associations of those involved in the legally protected speech, or the manner in which they engage in lawful expression.

3. Members shall not unlawfully interfere with lawful protests and assemblies.

Enforcement Procedures

Standardized Warnings

1. Give a Standardized Warning, Form 15, (See Appendix A) when warning individuals or crowds who are in violation of the law that they are subject to arrest if they do not disperse.
2. Communicate all standardized warnings via "bull horn," loud speaker or other similar communication device which ensures that members of the group can clearly hear the warnings being issued based on the size of the crowd and environmental conditions. MFF members shall be positioned in the rear of the crowd and shall provide a verbal and/or physical confirmation to the members giving the warnings that such warnings are audible. Additional warnings shall be provided by MFF members moving among the crowd to the extent that the standardized warnings are not audible.
3. MMF members shall record all standardized warnings with audio-visual equipment. Videographers will be embedded into the MFF platoons for this purpose.
4. Record the exact date, times and locations of the warnings given on the Standardized Warning, Form 15.
5. Provide all individuals with a reasonable opportunity to comply with such warnings and exit the area. Arrests may only occur after an order to disperse has been clearly communicated in a manner that is reasonably calculated to be heard by each of the persons in the group. MFF members shall not arrest individuals who are attempting to comply with warnings and shall take into account verbal indications of an individual's intent to disperse. If a person refuses to disperse after a lawful order has been issued and three warnings have been provided, or if, during dispersal, the person commits a criminal act, then the member has the option to arrest the individual if other strategies do not resolve the matter.

Mass Arrest

1. Efforts shall be made to isolate and remove specific individuals or groups of agitators whose purpose is to incite the crowd to engage in serious unlawful conduct (e.g., collective violence, injury, destruction of property, etc.), or whose actions constitute a serious and sustained threat to critical services, before orders for mass arrest are issued in response to illegal behavior. A serious and sustained threat means a demonstrated likelihood that significant disruption of public safety or access to critical services is imminent. Often times, removing agitators will cause others in the crowd to de-escalate activity or disperse without further law enforcement intervention. Only the IC shall issue a mass arrest order.
2. Efforts also shall be made to distinguish demonstrations and assemblies in which individuals are engaged in coordinated nonviolent civil disobedience from other gatherings in which a significant number of individuals are engaged in serious unlawful acts that threaten public safety (e.g., collective violence, injury, destruction of property, etc.). Mass arrests orders should be avoided to the extent individuals are merely engaged in nonviolent civil disobedience.

3. Members may be confronted with a situation where large numbers of individuals will be arrested for violations of the law. Issues to consider before issuing a mass arrest order are:
 - 3.1. Number of members;
 - 3.2. Number of protestors;
 - 3.3. Location and type of event;
 - 3.4. Seriousness of violations;
 - 3.5. Threats to public safety;
 - 3.6. Number of protesters committing violations;
 - 3.7. Demeanor of protestors; and
 - 3.8. Availability and adequacy of arrest teams/prisoner transportation.

NOTE: Notwithstanding the foregoing issues, mass arrest orders should not be given unless the IC determines that the protest or gathering presents a serious and sustained threat to public safety or access to critical services. A serious and sustained threat means a demonstrated likelihood that a significant disruption of public safety or access to critical services is imminent. In addition, the IC should attempt to employ less restrictive means to de-escalate activity prior to issuing an order for mass arrest.

4. Upon issuing an order to execute mass arrests, the IC shall:
 - 4.1. Ensure sufficient arrest teams are assembled, equipped and staged. Equipment shall include: Pre-packaged arrest packets including: CBIF wrist band, Charge Information Form 11/165, Flex Cuffs, first aid equipment, etc. Refer to Policy 1114, *Persons in Police Custody*, for further guidance.
 - 4.2. Stage a sufficient number of prisoner transportation vehicles and ensure that such vehicles are adequately equipped in light of the number of arrestees, environmental conditions, and any other relevant considerations.
 - 4.3. Notify Central Booking and Intake Facility (CBIF) to prepare to receive arrestees;
 - 4.4. Identify an alternate facility prepared to accept additional prisoners beyond the capacity of CBIF; and
 - 4.5. Assign personnel to process and charge arrestees.

Use of Force

1. The BPD Use of Force policy does not change during periods of Civil Disturbance, and members shall refer to Policy 1115, *Use of Force*, as well as Policy 804, *First Amendment Protected Activity*, for guidance on the proper application of force during periods of Civil Disturbance.

2. The deployment of Less Lethal Launchers/Munitions, OC Spray, baton strikes, etc., shall be investigated as a use of force. See Policy 1115, *Use of Force* and Policy 414, *Less-Lethal Munitions and Chemical Agents*, for reporting requirements.
3. If an individual has been subjected to impact by a less-lethal impact projectile he/she will be provided with medical treatment. If the individual refuses medical treatment or leaves the location, document the actions taken to identify and render aid to the individual in the Use of Force review.
4. Any individual who complains of injury from other LL deployment (e.g., OC spray, CS/CN gas, etc.) shall receive medical treatment upon request, when safe to do so.
5. All use of force investigations shall be conducted in accordance with Policy 1115, *Use of Force*, when it is safe and practicable to do so.

Less-Lethal Launchers/Munitions

MFF members authorized and approved to deploy Less-Lethal Launchers/Munitions shall obey all rules governing the deployment of these launchers/munitions per LL training. See Policy 414, *Less-Lethal Munitions and Chemical Agents*, Policy 409, *Firearms Regulations* and Policy 1115, *Use of Force*.

1. All MFF members shall be trained and certified to utilize certain Less-Lethal Launchers/Munitions. (e.g., PepperBall rounds, FN-303, MK-9 Pepper Fogger, etc.)
2. Certain MFF members shall be trained and certified to deploy 37/40mm weapons/munitions as well as CS/CN gas and smoke.

Chemical Agents / Canines

The Incident Commander (IC) shall approve/disapprove the decision to deploy Chemical Agents, canines, or any use of force intended for dispersing groups of individuals. Before deploying such chemical agents/force the IC shall ensure:

1. Clear warnings that Chemical Agents, force, etc., will be utilized are communicated to the individuals subject to such force.
2. The individuals are provided sufficient opportunity to heed the warnings and exit the area.
3. The effect of such Chemical Agents, force, etc., will be minimized on those individuals who are complying with lawful enforcement commands.
4. There is a means of safe egress from the area available to the individuals.
5. At no time shall Chemical Agents or force be used to frighten or punish individuals for exercising their constitutional rights.

NOTE: Nothing in this Policy restricts a member from deploying Chemical Agents to protect his/her immediate safety or the safety of others. (See Policy, 1118 *Oleoresin Capsicum (OC) Spray*, Policy 1115, *Use of Force* and Policy 414, *Less-Lethal Munitions and Chemical Agents*).

Demobilization

Upon completion of a MFF operation, the IC shall:

1. Designate a member to supervise the demobilization process;
2. Ensure that all equipment and personnel are accounted for;
3. Conduct/complete an After Action Review (AAR) report.

Training

Each BPD member shall receive training consistent with this policy. Such training shall include periodic instruction regarding the key requirements of the policy. Evidence of each BPD member's training – including the member's attendance, dates of training, and test scores or other proof that the member successfully completed the training – shall be documented appropriately.

APPENDICES

- A. Standardized Warning, Form 15.
- B. Common Criminal Charges for Mass Arrest Situations.

ASSOCIATED POLICIES

Policy 317, *Fair and Impartial Policing*
Policy 409, *Firearms Regulations*
Policy 414, *Less-Lethal Munitions and Chemical Agents*
Policy 804, *First Amendment Protected Activity*
Policy 1115, *Use of Force*
Policy 1118, *Oleoresin Capsicum (OC) Spray*
Policy 1504, *Uniforms and Equipment*
Policy 1508, *Respiratory Protection Program*

RESCISSION

Remove and destroy/recycle Policy 804, *Mobile Field Force* dated 1 July 2016.

COMMUNICATION OF POLICY

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

APPENDIX A

Standardized Warning, Form 15

STANDARDIZED WARNING

**POLICE DEPARTMENT
BALTIMORE, MD**

This warning is to be used when preparing to make arrests in civil disturbances. Any warnings that are given in civil disturbance incidents must be documented and retained for reporting requirements and notifications.

WARNING

I am _____ of the Baltimore Police Department.
(Official's name & rank)

You are in violation of

(State criminal offense)

If you do not cease your unlawful behavior at _____ and
(Exact Location)

disperse peacefully, you will be arrested. The following routes of dispersal are available

(Provide exact routes to disperse)

You have 5 minutes to disperse.

Date: _____ Time: _____

***Record the time that all warnings have been voiced to the violators.

1st Warning _____ (Wait 5 minutes before reading 2nd warning)

2nd Warning _____ (Wait 2 minutes before reading 3rd warning)

3rd Warning _____ (Commence making arrests)

Warnings should be given with either a bullhorn or a public address system, and must be given in a loud and clear manner. All warnings must be documented by members with BPD issued video recorders.

APPENDIX B

Common Criminal Charges for Mass Arrest Situations (1 of 4)

BALTIMORE-POLICE-DEPARTMENT

FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS ENUMERATED
LEGAL CHARGES

Below are the criminal charges most likely to give rise to arrests resulting from expected protests, assemblies and demonstrations in the City of Baltimore. Members are encouraged to contact the State's Attorney's Office or the Legal Affairs Section should questions arise concerning the statute most applicable to a given situation.

OBSTRUCTING & HINDERING:

... did intentionally and knowingly obstruct and hinder Police Officer, _____ (victim), in the performance of [his/her] lawful duties, in violation of the common law.

CODE: Common Law Misdemeanor

RIOT:

... on or about (date) _____ at (location) in _____ Baltimore City, Maryland, did, together with at least two other persons, whose identities are unknown, unlawfully assemble to carryout a common purpose in such violent or turbulent manner as to terrify others, in violation of the common law of the State of Maryland, and against the peace, government, and dignity of the State.

CODE: Common Law Misdemeanor

DISTURBING THE PEACE/HINDERING PASSAGE:

... did willfully and without lawful purpose [obstruct/hinder] the free passage of another and others in a public place or on a public conveyance.

CODE: CR 10-201(c)(1) Misdemeanor \$500 fine and/or 60 Days – Citation Eligible

REFUSE TO LEAVE PUBLIC BUILDING OR GROUNDS UPON REQUEST:

... did [refuse/fail to leave] _____, a property of the _____, a public agency, during regular closing hours, having no lawful business therein and having been requested to leave by _____ (name) an authorized employee.

NOTE: It must show that the acts took place after regular hours and while the property was closed. The facts must clearly demonstrate a lack of lawful business, but lawful business could cover a wide range of business or interests. There must have been an actual notice given. The unlawful activity must be clearly and specifically described.

CODE: CR 6-409(a)(2) Misdemeanor \$1,000 00 fine and/or 6 Months

MALICIOUS DESTRUCTION PROPERTY VALUE \$1000:

... did willfully and maliciously [destroy/injure/deface] _____ (describe), the [real/personal] property of _____ (owner/lessee, etc.), the amount of damage having a value of less than \$1,000.

CODE: CR 6-301 Misdemeanor \$500 fine and/or 60 Days – Citation Eligible

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MALICIOUS DESTRUCTION PROPERTY VALUE +\$1000:

... did willfully and maliciously [destroy/injure/deface] _____ (describe), the [real/personal] property of _____ (owner/lessee, etc.), the amount of damage having a value of \$1,000 or more.

CODE: CR 6-301 Misdemeanor \$2,500 fine and/or 3 Years

THROWING MISSILES – OCCUPIED VEHICLE OF INSTRUMENTALITY OF PUBLIC TRANSPORTATION:

... did unlawfully and willfully [throw/shoot/propel] a _____ (describe object, see note) at or into a vehicle to wit: _____ (describe) occupied by _____ (see note).

NOTE: Item thrown or propelled may be a rock, stone, brick, a piece of iron steel, or other like metal; or any dangerous or deadly missile. The Acts of 1997 strike the term "fire bomb" from this section. A fire bombing as previously proscribed under this section is punishable Under CR 4-501(b). To qualify under this section, the vehicle can be any vehicle or instrumentality of transportation. To qualify under this section, the vehicle must be occupied by one or more persons. If one, state name. If more than one, state all names if known, or the name of driver, owner, or complainant followed by the words " ...and _____ other persons.

CODE: CR 6-302 Misdemeanor \$500.00 fine and/or - 1 Year

ARSON – TRASH CONTAINER:

... did willfully and maliciously [set fire to/burn] the contents of a [dumpster/trash container/trash receptacle] belonging to another person in violation of CR 6-108 of the Annotated Code of Maryland.

NOTE: This applies to the contents only, and the trash container must belong to someone other than the defendant. It is not necessary to allege who it did belong to, merely that it did not belong to the defendant.

CODE: CR 6-108 Misdemeanor \$500.00 fine and/or - 30 Days – Citation Eligible

MALICIOUS BURNING – 1ST DEGREE:

... did willfully and maliciously [set fire to/burn] the personal property of _____ (name), to wit: _____ (brief description of property), the damage to the property being \$1,000.00 or more, in violation of CR 6-104(b) of the Annotated Code of Maryland.

CODE: CR 6-104(b) Felony \$5,000.00 - 5 Years

MALICIOUS BURNING – 2ND DEGREE:

... did willfully and maliciously [set fire to/burn] the property of _____ (name), to wit: _____ (briefly describe property), the damage to the property being less than \$1,000.00, in violation of CR 6-105(b) of the Annotated Code of Maryland.

CODE: CR 6-105(b) Misdemeanor \$500.00 fine and/or - 18 Months

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ARSON – 1ST DEGREE:

... did willfully and maliciously [set fire/burn] a [dwelling/occupied structure], to wit: _____, (give address or describe structure as in "the dwelling house of _____(name)," or "the occupied barn of _____ (name)," or "the occupied garage of (name)."), in violation of CR 6-102(a) of the Annotated Code of Maryland.

NOTE: The dwelling or occupied structure may belong to the accused or another. Any structure that is attached to a dwelling house, such as an attached garage or shed, is a part of the dwelling house. Any structure not attached to a dwelling house must be an "Occupied Structure" (see definition, previous page) to qualify for this section. Any burning or charring of any portion of the dwelling or occupied structure will satisfy the statute.

CODE: CR 6-102(a) Felony \$50,000.00 fine and/or - 30 Years

ARSON 2ND DEGREE:

... did willfully and maliciously [set fire to/burn] a structure, to wit: _____(give address or otherwise describe structure, as in above section), in violation of CR 6-103 of the Annotated Code of Maryland.

NOTE: The property may belong to the accused, or another.

CODE: CR 6-103 Felony \$30,000.00 fine and/or - 20 Years

DANGEROUS WEAPON – CONCEALED:

... did [wear and carry] _____ (state weapon), a dangerous weapon, concealed [on/about] [his/her] person.

CODE: CR 4-101(c)(1) Misdemeanor \$1,000.00 fine and/or - 3 Years

DANGEROUS WEAPON – INTENT TO INJURE:

... did openly wear and carry _____ (state weapon), a dangerous weapon, with the intent and purpose of causing injury to [_____(name/others)] in an unlawful manner.

CODE: CR 4-101(c)(2) Misdemeanor \$1,000.00 fine and/or - 3 Years

ASSAULT – FIRST DEGREE:

... did [assault/attempt to assault] _____ (name) in the first degree in violation of CR 3-202, contrary to the form of the act of the assembly in such case made and provided and against the peace, government and dignity of the state.

CODE: CR 3-202 Felony 25 Years

ASSAULT – SECOND DEGREE:

... did assault _____ (name) in the second degree in violation of CR 3-203, contrary to the form of the act of the assembly in such case made and provided and against the peace, government, and dignity of the state

CODE: CR 3-203 Misdemeanor \$2,500.00 fine and/or - 10 Years

ASSAULT SECOND DEGREE – LAW ENFORCEMENT:

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... did intentionally cause physical injury in the second degree to _____ (name), a [law enforcement officer/parole agent/probation agent] engaged in the performance of [his/her] official duties, in violation of CR 3-203.

NOTE: Law Enforcement Officer includes a correctional officer at a correctional facility, an officer employed by WMATA - Metro-transit police, subject to jurisdictional limitations.

CODE: CR 3-203(c)(2) Felony \$5,000.00 fine and/or - 10 Years

HARM OR CAUSE DEATH TO LAW ENFORCEMENT ANIMAL:

... did intentionally inflict [bodily harm/permanent disability/death] on an animal used by a law enforcement unit, to wit: _____.

NOTE: The intention of the General Assembly is that this section applies to all animals: Privately owned; strays; domesticated; feral; farm animals; corporately or institutionally owner; in privately, locally, state, or federally funded scientific or medical activities; or otherwise located in the state.

CODE: CR 10-606(a)(3) Felony \$5,000 fine and/or - 3 Years

DISORDERLY CONDUCT – FAILURE TO OBEY:

... did willfully fail to obey a reasonable and lawful order of a law enforcement officer, to wit: _____, made to prevent a disturbance of the public peace.

CODE: CR 10-201 Misdemeanor \$500.00 fine and/or 60 days

THEFT LESS THAN \$100.00:

... did steal _____ (property or service of _____ (owner) having a value of _____, less than \$100.00.

CODE: CR 7-104 (g)(3) \$500.00 fine and/or 90 days – Citation Eligible

THEFT LESS THAN \$1000.00:

... did steal _____ (property or service of _____ (owner) having a value of _____, less than \$1000.00.

CODE: CR 7-104 (g)(2) \$500.00 fine and/or 18 months

TRESPASSING – POSTED PROPERTY:

... did trespass and enter upon the property of _____ (owner), said property being posted against trespassers in a conspicuous manner.

CODE: CR 6-402 \$500.00 fine and/or 90 days

TRESSPASSING – PRIVATE PROPERTY:

... did (enter upon/cross over) the land, private property, and premises of _____ (owner) after being duly notified not to do so by _____ (owner/agent of the owner).

CODE: CR 6-403 \$500.00 fine and/or 90 days
