Summary of Model & Revised Use of Force Development Process

The Allegheny County Chiefs of Police Association in partnership with the Allegheny County District Attorney’s Office periodically creates and distributes model policies and forms for a variety of topics of interest to our Officers. These model policies are for the use of any law enforcement agency in need of sample policies, whether or not an officer of our Association. We encourage agencies to tailor policies for their own needs and circumstances, so we view these policies as a logical starting point for agencies which are creating new policies or reviewing existing policies. We endeavor to make available models which set forth “best current practices” and Pennsylvania Law Enforcement Accreditation Commission (PLEAC) standards, but we do not attempt to impose upon any agency any specific policies in whole or in part. To best serve your department, any changes to your existing Use of Force Policy should be reviewed by you, your municipality, and its insurance carrier to coincide with department size, population density and other unique characteristics of your community before being implemented.

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties. Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

Our Association first created and distributed a Model Use of Force Policy in 1999, with revisions in 2004, 2007, 2008, 2009, 201, 2019 and 2021. Since the last revision, many agencies nationwide have reviewed, revised, and amended their policies based upon ever-changing best practices. In July of 2018, our Association created a working committee to review our 2011 model policy. We met multiple times for numerous hours with robust debate on several areas. Below is an outline of how the committee developed this model policy.

First, the previous policy used the then-popular Use of Force Continuum as a logical progression through the stages of force. More recently, many agencies have moved away from the rigid progression of this continuum and its diagrams and wheels and have instead adopted policies which rely upon the “objective reasonableness standard” as its premise in conformity with current case law. Under the objective reasonableness standard, force options available to an officer are not ranked on any particular level. Instead, officers are given the flexibility and discretion to choose the force option that is most reasonable based upon the totality of the facts known to him/her about a specific situation. We believe that this flexibility is easier to understand and allows officers to make quicker decisions than the use of force continuum. The continuum model is not based in law and may in fact be in conflict with what would be considered objectively reasonable. Although experts nationwide continue to debate this issue, our committee finds the use of an objective reasonableness standard to be the best practice.

Second, we spent a great deal of time attempting to streamline the policy. Our concern is that we do not want officers to be mentally overloaded with minutia when quick actions are required. Instead, officers should be looking at the totality of the circumstances known to them and making decisions which are reasonable under those circumstances. As a result, we have taken detailed discussion of specific force options such as chemical agents, electronic control devices, and assorted other options available to officers and placed them in appendices rather than in the policy itself. This
way, each agency can adopt and tailor its policies to suit the needs of its officers in light of the equipment it has authorized. K-9 and Civil Disobedience are not included in the model appendices; we felt they should be separate policies. We have also attempted to separate policy from training issues (e.g. verbal judo-de-escalation-slowing things down when possible) so that agencies can make their own decisions regarding training which best suits their needs. However, we strongly recommend that you require a review of your respective Use of Force Policy/Justification during annual firearms qualifications. It is as important to the “qualifications” as demonstrating proficiency with a firearm.

Third, we spent a lot of time in drawing the distinction between the use of deadly force and the use of less lethal force. We use the term “less lethal force” to recognize the fact that force that is not intended to be lethal can under certain circumstances result in death.

Fourth, we hotly debated language in Section 07(B)(2), which deals with the use of deadly force. It is our belief that 18PaCSA §508 does NOT set forth best current practices in that it permits the use of deadly force on a fleeing forcible felon without the added requirement that the suspect presents an immediate threat. While 18PaCSA §508 may present a defense to a criminal charge of improper use of deadly force, we do not believe that it is best current practice. Additionally, 18PaCSA §508 likely conflicts with current court decisions interpreting the U.S. Constitution.

Fifth, we wanted to emphasize that officers must be accountable for their actions and must be able to articulate the facts and circumstances known to them which make the force used objectively reasonable. For this reason, the model policy includes requirements regarding reporting the use of force, notification of supervisors, and use of force reviews by the agency. As chief, it is your decision on the appropriate report(s) e.g. incident, arrest, use of force, etc. to require. It also includes “Duty to Intervene” should an officer know or have reason to know that any officer regardless of rank is about to use, or is using, unreasonable force. Intervention is required even if the officer using unreasonable force is a supervisor or from another agency.

Sixth, we recognize that the primary responsibility of law enforcement is to protect people, their property, their rights, and the sanctity of human life. When force is used, our policy emphasizes the importance of medical considerations (requesting EMS and rendering aid) as quickly as reasonably possible.

Finally, we recognize that there is no way to specify the exact amount or type of reasonable force to be applied in every situation. Because there are an unlimited number of possibilities, allowing for a wide variety of circumstances, no rule can offer definitive rules for every situation in which the use of force becomes necessary. This model policy is intended to provide guidelines so that officers can make such decisions in a professional, impartial, and reasonable manner.
MODEL USE OF FORCE

01. **PURPOSE**

The purpose of this policy is to provide Police Officers with general guidelines on the Use of Force. Changes in law and procedure, as well as training provided on this procedure, will give rise to modifications and updates.

This policy should be reviewed at least every two years.

02. **POLICY**

It is the policy of this department that Police Officers shall use only that force that is *objectively reasonable* considering the totality of the circumstances known to the officer at the time, to effectively bring an incident under control, while protecting the lives of the officer(s) and others.

03. **DEFINITIONS**

**Deadly Force** – Force, which, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury.

**Forcible Felony** – Those felony crimes that are against persons, not property, and the force used has caused or immediately threatens to cause death or serious bodily injury.

**Less-Lethal Force** - Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.

**Imminent** – Likely to happen without delay; impending; threatening.

**Objectively Reasonable** - This term means that, in determining the necessity for force and the appropriate level of force, officers shall objectively evaluate each situation in light of the known facts and circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject and the danger to the community.

**Probable Cause** - Facts or circumstances that would lead a reasonable person to believe that an offense has been committed; or that seizable objects are in the place to be searched.

**Serious Bodily Injury (SBI)** – Bodily injury, which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

04. **AUTHORIZED USE OF FORCE**

A. **Use of Force** - Use of force is the amount of effort required by Police to compel compliance from a person. This includes any use of force occurring while the officer is acting in an official law enforcement capacity. Force used must be “objectively reasonable” based on the facts and circumstances confronting the officer(s) and judged from the perspective of a reasonable officer on the scene. See *GRAHAM v. CONNOR 490 U.S. 386 (1989)*.
B. All Officers are responsible for the review and knowledge of Pennsylvania Statute Title 18, Chapter 5, General Principles of Justification. Specifically, officers are governed by Section 505, Use of Force in Self-Protection; Section 506, Use of Force for the Protection of Other Persons; Section 507, Use of Force for the Protection of Property; and Section 508, Use of Force in Law Enforcement. These statutes, along with case law, have been used to form the basis of this policy.

C. The degree of force that is employed should consider the totality of the circumstances. These factors may include, but are not limited to:

1. Whether the subject is armed;
2. The severity of the crime at issue;
3. Whether the subject poses an immediate threat to the safety to officers or others;
4. Whether the subject is actively resisting arrest or attempting to evade arrest by flight;
5. Individual’s mental state or capacity;
6. The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained (Officers must be particularly aware of asphyxia issues in conjunction with prone or compressed and restrained positioning);
7. The availability of other options and their possible effectiveness;
8. Seriousness of the suspected offense or reason for contact with the individual;
9. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others;
10. The number of persons with whom the officer must contend;
11. The training and experience of the officer.

05. **FORCE OPTIONS**

The department recognizes that some situations require the application of force. Under the law, officers are not obliged to retreat when confronted with a threat. The department relies on the officer’s training, judgement and discretion to employ objectively reasonable force under each unique circumstance. The Force Options are examples of force tactics and techniques available to Police Officers when force is used against a subject. Officers should use an appropriate force option based on subject behavior. Officers are not required to use the least intrusive degree of force possible but are required to use reasonable force.

**Duty to Intervene:** When in a position to do so, officers have a duty to intervene should they know or have reason to know that any officer regardless of rank is about to use, or is using, unreasonable force. Officers shall promptly report any use of unreasonable force and the efforts made to intervene to a supervisor. Intervention is required even if the officer using unreasonable force is a supervisor or from another agency.
Examples of options for control and force response include but are not limited to:

A. **Officer Presence**

Definition: Identification of authority. Presence of a police officer in uniform, or the verbal identification of a police officer not in uniform.

B. **Verbal Control**

Definition: Dialogue or commands of direction or arrest. It may include advice, persuasion, warnings or orders. (Should be used in conjunction with all other uses of force).

C. **Restraint and Control (Examples include but are not limited to the following):**

1. **Soft empty hand control**

   Definition: Control techniques that have a minimal probability of injury if the subject resists the technique, i.e. holding, grasping, compliant cuffing, escorting, etc.

   Note: Use of neck restraints or similar weaponless control techniques (Lateral Vascular Neck Restraint) is prohibited unless deadly force is warranted.

2. **Chemical Agents:** OC (Oleoresin Capsicum) Chemical Aerosol

   Definition: An organic agent that is inflammatory. Causes localized topical heat, redness, inflammation and pain to all exposed skin and tissues. Effective time is 30 to 45 minutes. Usually does not require medical attention.

3. **CEW - Conducted Electrical Weapon**

   Definition: A device which delivers an electrical energy charge that when deployed in probe mode is designed to override the central nervous system and take control of the skeletal muscles of a subject. It may also be used in a pain compliance/drive stun mode.

4. **Hard empty hand control**

   Definition: Techniques that have a greater potential of injury and include pain compliance techniques such as joint manipulation, pressure points, takedowns and strikes to the subject with an officer’s personal weapons, e.g. open hand, clenched fist, forearm, foot, leg. The strikes should be aimed at the major muscle masses of the body – legs, arms, shoulders and side of the neck. However, if the resistance level continues to escalate, then it may be necessary to strike areas with greater injury potential, such as the face or other sensitive areas.

5. **Canine Techniques**

   Definition: Various techniques used by canine handlers to assist in the control or apprehension of subjects who present a danger to the community or the Officer.
D. **Impact Devices**

Definition: Less-lethal option that includes: baton, extended range impact devices, (bean bag rounds) or other devices targeted towards appropriate target areas to cause incapacitation and/or compliance.

E. **Deadly Force**

Definition: Force, which under the circumstances in which it is used, is readily capable of causing death or serious bodily injury.

06. **EXAMPLES OF RESISTANCE/BEHAVIOR BY THE SUBJECT MAY INCLUDE:**

A. **Verbally non-compliant**

Definition: Dialogue in the form of verbal resistance, the unwillingness to comply or cooperate and/or threats. Includes non-verbal actions (body language), as well as, speech and tone of the subject.

B. **Passive resistance**

Definition: Is a disobedience technique where a subject does not take action to prevent being taken into custody and his/her resistance in the form of non-compliance or inaction, e.g. a subject to be taken into custody let's his/her body go limp - the subject must then be carried away upon arrest.

C. **Defensive resistance**

Definition: Include actions that attempt to prevent an officer from taking control of a subject, such as evasive actions, tensing of muscles, pulling away, bracing, grasping an object, etc. The subject’s actions never rise to the level of being assaultive towards the officer, but he/she nevertheless is resistive, requiring sometimes substantial force to overcome. (For the purposes of this policy defensive resistant behavior includes “active resistance" behavior and the difference is more a matter of terminology than actions).

D. **Active aggression**

Definition: Assaultive behavior by the subject with personal or other weapons not perceived to be deadly or cause SBI. It includes the verbal threats of imminent assault or associated body language consistent with a substantial step toward that assault.

E. **Aggravated active aggression**

Definition: Assaultive behavior by the subject with personal or other weapons perceived to be deadly or may cause SBI. Involves actions where the subject is assaulting or threatening an imminent assault to the officer or someone else, with a weapon, techniques or object that is likely to cause SBI or death.
07. **USE OF DEADLY FORCE**

A. Officers shall only use deadly force in the performance of official duties in accordance with this regulation, other department regulations, and existing statutes. Nothing contained in this regulation shall preclude the use of deadly force in self-defense, when legally justified.

1. Officers who are trained and authorized to carry firearms shall only discharge a firearm against another when the use of deadly force is justified.

2. Deadly force is not limited to use of a firearm. It may become necessary for officers to protect themselves or others with means other than a firearm.

B. Officers are authorized to use deadly force when one or both of the following apply:

1. Protection: Officers may use deadly force to protect themselves or another from what they reasonably believe to be an imminent danger of death or serious bodily injury.

2. Arrest: To affect an arrest or prevent an escape when:
   - a. Such force is necessary to prevent the arrest from being defeated by resistance or escape; and
   - b. The person to be arrested has committed or attempted a forcible felony; and
   - c. there is probable cause to believe that the person to be arrested possesses a deadly weapon and poses a threat of death or serious bodily injury to the officer or others, or otherwise indicates that he/she will endanger human life or inflict serious bodily injury unless arrested without delay.

C. If feasible, and officer shall give warning before employing deadly force.

*See TENNESSEE v. GARNER, 471 U.S. 1 (1985)*

08. **LESS-LETHAL FORCE—GENERAL**

A. Officers may use less-lethal force in the performance of official duties in accordance with this regulation, other department regulations, and existing statutes.

B. Use of Less-Lethal Force: Unless further restricted by this regulation or other statutes, officers may use less-lethal force under the following circumstances:
1. **Protection**: Officers may use less-lethal force when they reasonably believe that such force is immediately necessary for the purpose of protecting themselves or another from bodily injury, from the unlawful force of another person, or the actions of a dangerous animal.

2. **Arrest**: Officers may use less-lethal force which they reasonably believe to be necessary to make an arrest and defend themselves or another from bodily harm while making an arrest.

3. **Prevent escape**: Officers may use less-lethal force which they reasonably believe is necessary to prevent the escape of a person in their custody and defend themselves while preventing the escape.

4. **Preventing suicide/injury**: Officers may use less-lethal force which they reasonably believe is necessary to prevent another person from committing suicide or inflicting bodily injury upon themselves.

5. **Prevent crime**: Officers may use less-lethal force which they reasonably believe is necessary to prevent another person from committing or consummating the commission of a crime involving, or threatening, bodily injury, damage to or loss of property, or a breach of the peace.

   C. Considerations: Officers shall consider the totality of the circumstances when making a determination as to the reasonableness of using less-lethal force.

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**09. LESS-LETHAL WEAPONS—SPECIAL CONSIDERATIONS, RESTRICTIONS, AND WARNINGS**

A. General: Officers shall only utilize less-lethal weapons in the performance of official duties.

B. Use of Less-Lethal Weapons: Officers shall only use a less-lethal weapon in the manner in which they have received department training on the use of the weapon. The playful, punitive, wanton, careless, or negligent use of a less-lethal weapon on duty, or any use of a less-lethal weapon not in the performance of duty, is prohibited.

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**10. REPORTING THE USE OF FORCE**

A. Any use of force by an officer of this department shall be documented promptly, completely and accurately in an appropriate report, including photographing injuries where applicable, depending on the nature of the incident.

B. The officer should articulate the factors perceived and why she/he believed the use of force was reasonable under the circumstances.

C. To collect data for purposes of training, resource allocation, analysis and related purposes, the department may require the completion of additional report forms, as specified in department policy, procedure or law.

D. Any action taken by an officer that results in injury or alleged injury should be reported under this policy.
11. **NOTIFICATIONS TO SUPERVISORS**

   A. Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

      1. Any application of deadly force;
      2. The application caused a visible injury;
      3. The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort;
      4. The individual subjected to the force complained of injury or continuing pain;
      5. The individual indicates intent to pursue litigation;
      6. Any application of the CEW or control device (e.g. OC, Impact Device, etc...);
      7. Any application of a restraint device other than handcuffs, shackles or belly chains;
      8. The individual subjected to the force was rendered unconscious;
      9. An individual was struck or kicked by an officer;
     10. An individual alleges any of the above has occurred.

12. **USE OF FORCE REVIEW**

   A. Any time force is used by a police officer an administrative review shall be conducted in accordance with department policy.

   B. When a police officer’s use of force causes death or serious bodily injury, she/he shall notify the department Supervisor/OIC, who in turn shall notify the Chief of Police, who will conduct or cause an administrative review and investigation.

   C. When a police officer’s use of force causes death or serious bodily injury, an outside agency as selected by the Chief of Police will also be contacted and requested to conduct an independent investigation.

   D. When a police officer’s use of force causes death or serious bodily injury, the officer(s) involved shall be placed on administrative leave after completing all internal investigative requirements and until it is determined by a mental health professional that the officer(s) is ready to return to duty.

13. **MEDICAL CONSIDERATIONS**

   A. Appropriate medical assistance is to be obtained as quickly as reasonably possible for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Such individual shall be continuously monitored until she/he can be medically assessed.
B. If reasonably safe to do so, while waiting for medical assistance officers will render appropriate medical aid within the limits of their training.

C. Medical assistance may also be obtained when in an officer’s judgement a medical evaluation is needed for any other reason not previously addressed in this policy.

D. Based upon the officer’s initial assessment of the nature and extent of the individual’s injuries, medical assistance may consist of examination by an Emergency Medical Services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

E. The on-scene supervisor or, if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would potentially be safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

F. Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called “excited delirium”), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

G. Officers must be particularly aware of asphyxia issues in conjunction with prone or compressed and restrained positioning.
ACCPA-DA MODEL Use of Force Policy Quiz

1. It is the policy of this department that Police Officers shall use only that force that is _______________ considering the totality of the circumstances known to the officer at the time, to effectively bring an incident under control, while protecting the lives of the officer(s) and others.

2. Deadly Force is force which, under the circumstances in which it is used, is readily capable of causing _______________ or _______________.

3. Force used must be _______________ based on the facts and circumstances confronting the officer(s) and judged from the perspective of a reasonable officer on the scene.

4. If in a position to do so, officers have a _______________ should they know or have reason to know that another officer is about to use, or is using, unreasonable force. Officers shall promptly report any use of unreasonable force and the efforts made to intervene to a supervisor.

5. Use of neck restraints or similar weaponless control techniques (Lateral Vascular Neck Restraint) is prohibited unless _______________.

6. Officers may use _______________ to protect themselves or another from what they _______________ to be an imminent danger of death or serious bodily injury.

7. If feasible, an Officer shall give _______________ before employing deadly force.

8. The playful, punitive, wanton, careless, or negligent use of a less-lethal weapon on duty, or any use of a less-lethal weapon not in the performance of duty, is _______________.

9. Any use of force by an officer of this department shall be documented _______________ in an appropriate report, depending on the nature of the incident.

10. _______________ shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. If reasonably safe to do so, while waiting for medical assistance officers will render appropriate _______________ within the limits of their training.
USE of FORCE POLICY QUIZ ANSWERS

1. objectively reasonable
2. death or serious bodily injury
3. objectively reasonable
4. duty to Intervene
5. deadly force
6. deadly force, reasonably believe
7. warning
8. prohibited
9. promptly, completely and accurately
10. medical assistance, medical aid

APPENDIX 1
GUIDELINES FOR THE USE OF FIREARMS

Departmental Authorized Firearms - Those firearms authorized by the department to be carried by police officers, including firearms personally owned or issued by the agency.

A. General Provisions

1. Firearms will be used in accordance with current training, departmental Use of Force policy and in accordance with the guidelines and procedures in this regulation.

2. Only Departmental Authorized Firearms for which officers have been qualified, and department issued ammunition, are permitted to be utilized.

3. Only Department authorized ammunition shall be used in firearms.

4. All officers must qualify annually and demonstrate proficiency with any Departmental Authorized Firearm used/carried, and as mandated by the MPOETC and Department Standards.

5. Officers shall never display or draw their firearms unnecessarily or in situations in which the use of deadly force is clearly inappropriate.
6. Other than for routine training or recreational purposes, all Departmental Authorized Firearms discharged while on-duty, while off duty, or by accident, shall be immediately reported per Use of Force Policy procedures.

7. Officers shall only discharge a firearm when the use of deadly force is justified, unless otherwise exempted by this policy.

8. Officers shall shoot to stop the action by causing the instant incapacitation of the threat.

   a. Primary target area: for maximum stopping effectiveness, and to minimize the danger to innocent bystanders, officers should shoot at the center of available body mass presented by the threat.

   b. Alternative target areas: should be considered (such as the head or pelvic area) when circumstances render the center mass of torso target ineffective at immediately stopping the action.

   c. Head shots: should be considered when the officer has a reasonable belief that the subject is in possession of a bomb or other explosive device, with the intent to carry out a suicide/homicide bombing, in order to facilitate the instant incapacitation of the subject while minimizing the potential for striking the bomb/explosive device.

9. Risk to Innocent Bystanders: Officers must be cognizant of any innocent third parties that may be present in or near the line of fire or in deadly proximity to an explosive blast in the case of a suicidal/homicidal bomber. Officers are prohibited from discharging firearms when it appears reasonably likely an innocent person may be injured, unless failure to use deadly force would likely result in the immediate death or serious bodily injury of the officer or other innocent persons.

10. Unholstering and Handling of Firearms: Officers may remove their firearm from their holster or other carrying devices in certain situations for safety (e.g., building searches for subjects, serving high-risk search or felony arrest warrants, checking vehicles in high-risk situations, felony arrest situations). They shall exercise a reasonable standard of care with the drawn firearm and in accordance with current department training.

11. Officers are expected to maintain proficiency with regard to the safe handling and use of all Departmental Authorized Firearms. Except for general maintenance, storage, or authorized training, officers shall not draw or exhibit a firearm unless circumstances create a strong reasonable belief it may be necessary to use the firearm in conformance with department policy.

12. The playful or wanton pointing of a firearm at anyone, on or off duty, or the careless or negligent handling or use of a firearm, is prohibited.

13. Shooting at or From Moving Motor Vehicles or Machinery (Associated Policy: see “Vehicle Pursuits” policy):
a. The use of firearms to disable a pursued vehicle is not generally effective and involves all the responsibilities and dangers associated with discharging firearms.

b. In addition to justifying the use of deadly force, the following factors must have been considered, as applicable:
   
i. The difficulty of hitting a moving target, and/or the difficulty of hitting a target while shooting from a moving vehicle or machinery.
   
   ii. Ricocheting bullets striking unintended targets.
   
   iii. Population density.
   
   iv. The inability to stop a vehicle’s or machinery’s momentum, even when the target actor is hit, and the damage or injury which might result from causing a vehicle or machinery to go out of control.

14. Warning Shots: are prohibited under any circumstances.

15. Rescue Shots: A rescue shot identifies a location and signals for appropriate assistance. Officers who are in danger of death or serious bodily injury and incapacitated to the extent they cannot signal in any other manner, may fire a rescue shot(s). Officers must exercise reasonable care (e.g., shooting away from any other individuals, homes, vehicles) when firing rescue shots.

16. Directed-Fire Shots: In some extreme circumstances, it may be necessary for officers to employ weapon(s) fire directed at a subject's location with the intent of stopping his/her actions, restricting his/her movement, and/or preventing him/her from endangering law enforcement officers or innocent persons in vulnerable positions. This tactic is a limited, task-specific action used to affect an arrest(s), rescue a trapped individual(s), maneuver out of the kill zone, and/or accomplish other emergency objectives. Officers shall be cognizant of any innocent third parties that may be present in or near the line of fire when employing this tactic.

17. Destruction of Animals: Officers may use a firearm to kill a dangerous animal in self-defense or defense of another person, or to terminate the suffering of a critically injured or sick animal, when other means of disposal are impractical. Whenever possible, the owner of the animal to be destroyed shall be contacted and permission obtained. Whenever the shooting of an animal is necessary, precautions shall be taken to protect any nearby persons or property.

B. Subject Handling

Shall be in compliance with Use of Force Policy procedures **Section 13 MEDICAL CONSIDERATIONS.**

1. All subjects struck by a firearm round(s) must be evaluated by emergency medical services and then be transported to a medical facility for further treatment/evaluation.
C. Reporting

1. Intentional uses of a firearm against an individual in an enforcement capacity shall be reported to the officer’s immediate supervisor as soon as possible and comply with Use of Force Policy procedures “NOTIFICATIONS TO SUPERVISORS”.

2. The use of a firearm constitutes a use of force and, as such, shall be reported in accordance with department Use of Force Policy reporting procedures.

3. Attempts shall be made to photograph any/all injuries caused by a firearm and documented within a report.

4. The report must include a description of the incident, the reason for the firearm use, officers involved, type and number of rounds fired, where the rounds struck the subject, the response of the subject, obvious injuries, as well as treatment rendered.

D. Supplemental Firearms

1. Patrol Rifle

2. It is a Departmental Authorized Firearm either owned or approved for use by the department. It is a supplemental resource to the duty handgun.

3. Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

   a. Situations where the officer reasonably anticipates and can articulate an armed encounter;
   b. When an officer is faced with a situation that may require the delivery of accurate and effective fire at long range;
   c. When an officer reasonably believes that there may be a need to deliver fire on a barricaded subject or a subject with a hostage;
   d. When an officer reasonably believes that a subject may be wearing body armor;
   e. When authorized or requested by a supervisor.

APPENDIX 2
GUIDELINES FOR USE OF AEROSOL DEFENSIVE SPRAY

Oleoresin Capsicum (OC) Chemical Aerosol - An organic agent that is inflammatory. Causes localized topical heat, redness, inflammation and pain to all exposed skin and tissues.

A. General Provisions
1. OC will be used in accordance with current training, departmental Use of Force policy and in accordance with the guidelines and procedures in this regulation.

2. No officer of this department will be permitted to carry or use OC until he/she has successfully completed the approved training course.

3. Reasonable uses include:
   a. An officer perceives he/she is being threatened with physical force.
   b. A person actively resists arrest.
   c. A person assaults or attempts to assault a police officer or another person.
   d. Other means of controlling the subject are unreasonable or could cause injury to the subject, the officer or others present.
   e. An officer is threatened by a dangerous animal.

4. OC shall not be used when:
   a. A person submits peacefully to arrest and complies with lawful demands during an arrest or while in custody/detention.
   b. A person is simply passively resistant.
   c. A person complies with lawful commands during a valid investigative stop or stop for citation purposes.
   d. Once a subject is incapacitated and/or restrained and under control.

5. Other considerations for use:
   a. Whether innocent bystanders could be affected.
   b. Whether subject is operating a motor vehicle.
   c. Environmental considerations.
   d. Subject location.
   e. Known health conditions of subject.

6. Officers shall carry only department authorized OC canisters in the prescribed manner as authorized by the department.

7. Officers will not brandish or use OC as an intimidation or coercing device, unless the officer is attempting to prevent the further escalation of force.
8. Whenever additional officers are present and it is practical and reasonable, officers should issue and repeat the verbal warning “CLEAR-OC” prior to using OC against a subject.

9. Officers shall distance themselves from the subject to allow the dispensing officer a clear line of fire.

10. Normally subjects should not be provided with the “courtesy” warning before dispensing OC if cross contamination of other officers is not an issue.

B. Subject Handling

1. The effects of OC vary among individuals. Therefore, all subjects shall be handcuffed as soon as practical after being sprayed. Officers must balance the need to control the subject and protect him/her from injuries VS. rushing in too quickly before the spray has had an opportunity to take effect. Officers should also be prepared to employ other force options consistent with department policy if the subject does not respond sufficiently to the spray and cannot otherwise be subdued.

2. Immediately after spraying a subject, the officer shall:
   a. Give strong, loud, simple verbal commands to the subject while moving laterally out of the subject’s pathway.
   b. Be alert to any indications that the subject needs prompt medical care. This includes, but is not limited to, breathing difficulties, gagging, profuse sweating, and loss of consciousness (See Use of Force Procedures Section 13 Medical Considerations).
   c. Remove the subject from contaminated area as soon as practical.

3. Officers must be particularly aware of asphyxia issues after OC usage in conjunction with prone or compressed and restrained positioning.

C. Decontamination (Person): The below procedures are not intended to be done in the listed sequence but as quickly as possible.

1. As soon as practical after the subject has been controlled by the use of OC, the officer shall:
   a. Expose the subject to fresh air, if practical.
   b. Flush the subject’s face and other affected areas with water or other approved remedy if the subject cooperates.
   c. Ask if the subject suffers from any respiratory disease or other problems such as asthma, bronchitis or emphysema. If the subject complains of or displays symptoms of respiratory distress, medical attention should be summoned immediately.
   d. Assure the subject that the effects of the chemical agent are only temporary.
   e. Remove the affected person from the area.
D. Subject Medical Considerations

1. Shall be in compliance with Use of Force Policy Procedures Section 13 MEDICAL CONSIDERATIONS.

2. Subjects that have been sprayed shall be monitored continuously for indications of medical problems and shall not be left alone while in custody until the effects of the OC spray have subsided (typically 30-45 minutes).

3. The officer will ensure any contaminated subject requesting medical treatment will receive treatment from responding EMS without undue delay.

E. Reporting

1. The use of OC constitutes a use of force and, as such, shall be reported in accordance with department Use of Force reporting procedures.

2. Intentional uses of OC against an individual in an enforcement capacity, shall be reported to the officer's immediate supervisor as soon as possible and comply with Use of Force Policy procedures “NOTIFICATIONS TO SUPERVISORS”.

3. Any use of OC except during testing and training shall be documented in accordance with department policy.

4. Included in any report will be: a description of the incident, the reason for use, officer(s), type and amount used, response of subject, obvious injuries, as well as, treatment type.

F. Decontamination (Buildings & Vehicles) - Buildings and vehicles where OC has been employed should be decontaminated.

G. Maintenance

1. Officers shall routinely inspect their OC canisters for signs of leakage, damage, expiration date, etc.

2. OC should not be stored in direct sunlight or in areas where the temperature may exceed 120 degrees Fahrenheit.

APPENDIX 3
GUIDELINES FOR THE USE OF THE CONDUCTED ELECTRICAL WEAPON (CEW)

CONDUCTED ELECTRICAL WEAPON (CEW) - A device which delivers an electrical energy charge that when deployed in probe mode is designed to override the central nervous system and take control of the skeletal muscles of a subject. It may also be used in a pain compliance/drive stun mode.

A. General Provisions
1. The CEW authorized for use by the department is the Axon Taser ____________________.

2. A CEW has two modes in which it may be used:
   a. Neuro – Muscular – Interruption (NMI) or Probe mode: delivers a high voltage, low power charge of electricity that is designed to override the central nervous system (CNS) and take control of the skeletal muscles of the body.
   b. Drive stun mode: delivers the electrical current causing localized pain but does not have a significant effect on the CNS.

3. Officers shall use CEW’s when warranted in accordance with the guidelines and procedures in this regulation:
   a. Only officers who have completed the prescribed course of instruction on the use of a CEW are authorized to carry the device.
   b. Officers whose normal duties/assignments may require them to make arrests or supervise arrestees and have been properly trained will carry a department authorized CEW while on duty, if available.
   c. Uniformed officers shall carry only a department authorized CEW in the manner prescribed by the department. Non-uniformed officers may carry a CEW in alternative devices as authorized by the department.
   d. CEW Force is considered a use of force and shall be employed in a manner consistent with the department’s Use of Force policy. A CEW may be used to overcome active resistance in accordance with this policy, current case law and current Taser training.
   e. All CEW devices shall be maintained in an operational and charged state by assigned personnel. It will be the responsibility of the officer to whom the device was issued to report damaged, inoperable, or malfunctioning devices to their immediate supervisor. Devices needing repair will be taken out of service.

4. **A CEW may be used:**
   a. Verbal dialogue has failed to bring about the subject's compliance, and;
   b. The subject has signaled his intention to **actively resist** the officer's efforts to make the arrest or control him.
   c. The actions of the subject pose an imminent danger to officers, the public or themselves.
   d. Use of the CEW is reasonable given the circumstances.

5. **CEW may not be used when:**
   a. Once a subject is incapacitated and restrained.
b. When an officer is attempting to overcome passive resistance by a subject.

c. Near flammable liquids or fumes or in the immediate area of a suspected methamphetamine laboratory.

d. At a location where if the subject falls he/she is subject to additional injury e.g. elevated areas, proximate to water.

e. When the subject is visibly pregnant, unless deadly force is justified.

6. CEW deployment should be avoided when:

   a. The subject is at the extremes of age or physically disabled.

   b. Deadly force is clearly justifiable, unless another officer is present and capable of providing deadly force coverage, to protect the officers and/or civilians as necessary.

   c. The subject is operating a motor vehicle.

B. Usage Procedures - CEW’s will be used in accordance with current Taser training and departmental Use of Force policy to include the following:

1. Never aim the CEW at sensitive tissue areas such as the eyes, face or groin. Keep hands away from the front of the weapon at all times unless the safety is activated and the CEW deactivated.

2. Center mass of the body should be the primary target area, particularly the center mass of the back as clothing tends to be tighter on this part of the body.

3. Upon CEW activation, officers should attempt to take a subject into custody during the cycle or as soon as it is reasonably safe to do so.

4. Multiple or prolonged activations may present an increased risk to the subject.

5. Whenever additional officers are present, and it is practical and reasonable, officers should issue and repeat the verbal warning “TASER” prior to using a CEW against a subject.

C. Subject Handling

1. Shall be in compliance with Use of Force Policy Procedures Section 13 MEDICAL CONSIDERATIONS.

2. Probes are not to be removed from the subject until the subject has been secured with handcuffs (and other restraints as necessary).
3. Probes can be removed in accordance with current Taser training and recommendations.

4. After probes are removed, the sites shall be photographed.

5. Cartridges, probes, wires and AFID’s shall be collected as evidence and shall be retained in accordance with department evidence procedures.

6. Should the probes penetrate soft tissue in areas such as the face, neck, groin, probes are to be removed only by medical (hospital) personnel.

7. EMS personnel shall be notified if the subject requests or the subject sustains injuries where the officer feels the subject needs to be treated by EMS.

D. Reporting

1. The use of a CEW constitutes a use of force and, as such, shall be reported in accordance with department Use of Force reporting procedures.

2. Intentional uses of a CEW against an individual in an enforcement capacity, as well as, accidental discharges shall be reported to the officer’s immediate supervisor as soon as possible and comply with Use of Force Policy procedures “NOTIFICATIONS TO SUPERVISORS”.

3. All discharges of a CEW except during testing and training shall be documented in accordance with department policy.

4. Included in any report will be: a description of the incident, the reason for use, officer(s), type and serial number of unit(s), mode used, expended cartridge serial number (if used), where CEW struck subject, response of subject, obvious injuries, as well as, treatment type.

E. Supervisor/OIC Responsibilities:

1. Ensure that officers who deploy the CEW are qualified to do so and that a report indicating its use is completed.

2. Respond to the scene when a CEW has been used.

3. Conduct scene investigation when a CEW has been used.

4. Ensure that EMS personnel examine the subject as required by policy; if the subject makes a formal request to be checked; or if the subject is having an apparent problem as a result of the CEW use.

5. Ensure that the leads used are collected, as well as the expended cartridge and several of the AFID’s. Submit all as evidence.

6. When practical, photographs should be taken documenting any injuries.
APPENDIX 4
GUIDELINES FOR THE USE OF POLICE BATONS

Police Batons (straight or expandable) are impact devices that can provide means by which an officer can defend himself/herself or others from injury when targeted towards appropriate target areas to cause incapacitation and/or compliance.

A. General Provisions

1. Batons are considered a use of force and shall be employed in a manner consistent with this regulation and department Use of Force policy. It is considered an “Impact Force” technique that should be considered with other available alternative techniques.

2. No officer shall carry a baton unless it has been authorized by the department and they have completed approved training.

3. Depending on baton type, the baton should be carried in a baton ring, appropriate scabbard or in a low-profile position when the baton is not in use.

4. The officer will not unnecessarily brandish or use the baton as an intimidation or coercing device, unless the officer is attempting to prevent the further escalation of force.

5. In the event that the officer’s use of the baton is not feasible, it may be objectively reasonable to use an alternative object.

6. As with other uses of force, application of batons will cease when the subject stops resistance or aggression, or when the arresting officers(s) have gained sufficient control of the subject.

B. Usage Procedures

1. Strikes with a baton should be delivered to the following areas:

   a. Primary targets - major muscle masses. The primary targets are the major muscle masses, such as the forearm, thigh, or calf. These locations should be selected because of low implication of injury to the subject. Impacts to these areas normally create severe muscle cramping which inhibits the subject’s ability to continue aggression.

   b. Secondary target areas - joints or bones. If primary areas are unavailable or unreasonable target areas, secondary target areas are joints or bones. For
example, elbows, wrists and knees. These areas carry a higher probability of creating damage to soft or connecting tissues, as well as bone fractures.

c. **Deadly force targets.** Include head, neck, throat, spine and internal organs and are considered target areas which the officer may strike if justified in using deadly force. These impact points have high implications of creating severe injury in the form of great bodily harm or death. Therefore, the officer will avoid intentionally striking these areas during any confrontation, **unless the level of resistance is severe enough to justify the use of deadly force.**

C. **Subject Handling**

1. Shall be in compliance with Use of Force Policy Procedures **Section 13 MEDICAL CONSIDERATIONS.**

D. **Reporting**

1. The use of an impact device constitutes a use of force and, as such, shall be reported in accordance with department Use of Force reporting procedures.

2. Intentional uses of an impact device against an individual in an enforcement capacity shall be reported to the officer's immediate supervisor as soon as possible and comply with Use of Force Policy procedures “NOTIFICATIONS TO SUPERVISORS”.

3. Any and all injuries caused by an impact device shall be photographed and documented within a report.

4. The report must include a description of the incident, the reason for the impact device, officers involved, where the device struck the subject, the response of the subject, obvious injuries, as well as treatment rendered.

**APPENDIX 5**

**GUIDELINES FOR THE USE OF EXTENDED RANGE IMPACT DEVICES**

**Extended range impact devices** are approved for use in subduing violent or potentially violent individuals recognizing that combative, non-compliant, armed and/or violent subjects cause handling and control problems that require special training and equipment.

A. **General Provisions**
1. Only department issued and specifically designated less-lethal weapon systems and munitions/impact projectiles are authorized. They may include the 12-gauge bean bag round and/or the 40mm Foam Round.

2. Officers shall use extended range impact devices when warranted in accordance with the guidelines and procedures in this regulation.

3. Only officers that have successfully completed a departmental approved training and qualification course in the proper use and deployment of extended range impact projectiles will be authorized to deploy them during actual operations.

4. Any officer that has been trained and is currently qualified to use the extended range impact device may use this weapon if justified by the circumstances. The Supervisor/OIC will be notified as soon as practical of the impending/intended use of these devices.

5. Extended range impact devices are considered a use of force and shall be employed in a manner consistent with the department's Use of Force policy. It is considered an “Impact” force technique that should be considered with other available alternative techniques. Circumstances that may justify the use of these devices include, but are not limited to:

   a. Situations where subjects are actively aggressive toward officers or bystanders.
   b. Safely controlling violent or potentially violent persons.
   c. Subduing vicious animals.
   d. Situations where a Supervisor/OIC deems their use to be reasonably necessary to safely resolve the incident and prevent escalation of an incident to a life threatening situation.
   e. Restoration of order during civil disturbances (not peaceful demonstrations/marches) involving active aggression toward persons or property
   f. Where deadly force is clearly justifiable; however, another officer must be present and capable of providing deadly force coverage, to protect the officers and/or civilians as necessary.

6. Any deployment of these devices shall be done within accordance of all department policy, less-lethal manufacturer recommendations, as well as department device training and standards.

7. As with other uses of force, application of extended range impact devices will cease when the subject stops resistance or aggression, or when the arresting officers(s) have gained sufficient control of the subject.

8. The following conditions may preclude the use of extended range impact devices, unless deadly force is justified:
a. Where the size, age, and/or weight of the subject would increase the potential of serious bodily injury or death.

b. Where there is an obvious or known medical condition that would increase the potential of serious bodily injury or death to the subject.

c. Where the use of an extended range impact device would increase the risk to hostages or other person(s).

B. Usage Procedures

1. If possible, officers on scene should be notified that the impact device will be deployed should issue and repeat the verbal warning “BEAN BAG” prior to using against a subject.

2. Subject target areas are based on the circumstances and level of force authorized:

a. Primary targets - major muscle masses. The primary targets are the major muscle masses of the lower body. These locations should be selected because of low implication of injury to the subject. Impacts to these locations normally create severe muscle cramping which inhibits the subject’s ability to continue aggression.

b. Secondary target areas - joints or bones. If primary areas are unavailable or unreasonable target areas, secondary target areas are joints or bones, preferably of the lower body. These areas carry a higher probability of creating damage to soft or connecting tissues, as well as bone fractures.

c. Deadly force targets. Include head, neck, throat spine, internal organs and are considered target areas which the officer may strike if justified in using deadly force. These impact points have high implications of creating severe injury in the form of great bodily harm or death. Therefore, the officer will avoid intentionally striking these areas during any confrontation, unless the level of resistance is severe enough to justify the use of deadly force.

d. Rounds are to be precisely aimed at portions of the subject’s body. Consideration must also be given to target isolation so innocent people in the immediate area are not harmed should a round miss the intended target.

C. Effects of an extended range impact device.

1. They should temporarily incapacitate subjects, reducing his ability to continue aggressive action. Incapacitation occurs from the shock wave, pain and movement of tissue and injury.

D. Subject Handling

1. Shall be in compliance with Use of Force Policy Procedures Section 13 MEDICAL CONSIDERATIONS
2. All subjects struck by less-lethal projectile impact munitions must be evaluated by emergency medical services. They shall then be transported to a medical facility for further treatment if necessary.

E. Reporting

1. The use of less-lethal impact projectile munitions constitutes a use of force and, as such, shall be reported in accordance with department Use of Force reporting procedures.

2. Intentional uses of a less-lethal impact projectile against an individual in an enforcement capacity shall be reported to the officer's immediate supervisor as soon as possible and comply with Use of Force Policy procedures “NOTIFICATIONS TO SUPERVISORS”.

3. Any and all injuries caused by less-lethal impact projectile munitions shall be photographed and documented within a report.

4. The report must include a description of the incident, the reason for the use of less-lethal force, officers involved, type and number of rounds fired, where the rounds struck the subject, the response of the subject, obvious injuries, as well as treatment rendered.

APPENDIX 6
GUIDELINES FOR THE USE OF HANDCUFFS - FLEXIBLE CUFFS –LEG SHACKLES

A. General Provisions

Every individual who is taken into custody shall be properly restrained by the use of handcuffs or flexible handcuffs. So as to eliminate the possibility of the prisoner utilizing the handcuffs as a weapon, unless a pre-existing injury, medical condition, age or physical reasons prohibit, the prisoner's hands are to be handcuffed behind the back with palms together or back-to-back.

Once controlled, based on subject size, consider using “Double Cuffing” option. This allows the chest to have better expansion for breathing.

1. An exception to this procedure will be the use of an approved handcuff waste belt.

2. The use of leg shackles and waist belts when transporting a prisoner are permissible. Some factors that may be considered when using these devices include:

   a. The nature of the charges against the prisoner.
   b. The escape potential of the prisoner.
   c. The risk of assault by the prisoner.
   d. Number of officers on the transport.
   e. Age and health of subject, pregnancy, and/or physical disability

3. Whenever handcuffs or leg shackles are utilized, they will be double-locked.
4. As soon as possible and safe to do so, handcuffs and if applicable leg shackles, shall be checked for proper fit (i.e. visual inspection, finger sweep test).

5. Indicate in the narrative portion of the arrest/incident report that handcuffs, flexible handcuffs and if applicable leg shackles, were checked for fit (tightness) and double locked.

6. If a prisoner makes a complaint with respect to the tightness of handcuffs, flexible handcuffs or leg restraints, as soon as possible and safe to do so, recheck for proper fit and document your efforts in the narrative portion of the arrest/incident report.

7. Officers must be particularly aware of asphyxia issues in conjunction with prone or compressed and restrained positioning. As soon as possible and safe to do so, get him/her off their stomach and place in a side or seated position.

8. Arrestees shall not be handcuffed to any part of the transporting vehicle, such as a door post.

9. In the event an individual is handcuffed for “Officer Safety” purposes and not arrested or cited, the reporting officer must be able to articulate facts and circumstances that would lead an objectively reasonable officer to believe that there is a reasonable safety concern.

10. Additional restraint devices may be approved and be used to secure an individual who violently resists arrest or who acts in a manner that indicates he or she poses a threat to him/her or to the public. Officers should use only those restraints that appear necessary to control the situation and only for the period of time required.

11. When practicable, the requirements of this directive will be followed when transporting mentally disturbed prisoners. For those situations in which the mentally disturbed prisoner poses a significant threat to him/her self or the officer(s), an additional restraining device, such as medical restraints or a stretcher with restraining devices, may be used in order to securely restrain the individual.

**FIVE REMINDERS:**

* As soon as possible and safe to do so, get him/her off their stomach and place in a side or seated position.
* As soon as possible and safe to do so, check for fit after the cuffs/shackles are applied (visual inspection, finger sweep test).
* Always, double lock.
* As soon as possible and safe to do so, respond to any complaint of tight restraints and document your response.
* Remove cuffs/shackles when safe to do so.
THE ALLEGHENY COUNTY
CHIEFS OF POLICE ASSOCIATION

MODEL
PURSUIT
POLICY


In Partnership With

The Allegheny County District Attorney’s Office

Reviewed 2020
After a number of pursuits ended in fatal crashes involving innocent civilians, police officers and suspects, District Attorney Zappala asked the Allegheny County Chiefs of Police Association Executive Board to develop a best practices model pursuit policy. Although the District Attorney was not involved in drafting this policy, it was clear that he would like to see the increased use of technology and a more restrictive pursuit policy than is currently being used by many departments. It was also clear that the District Attorney intended to use his office to encourage compliance.

In December-2016 a working committee was appointed which met multiple times for numerous hours with robust debate on several areas. Below is an outline of how the committee arrived at decisions in these areas, as well as the counter-arguments considered in efforts to develop a model pursuit policy.

First, the definition of a pursuit was debated. The vehicle code has a specific definition which includes following a suspect who is operating his vehicle in a lawful and safe manner. It was determined that, since the risk to the public in such situations is minimal, our definition of pursuit would not include an attempt by a police officer to stop any motor vehicle operating in conformance with posted speed limits and other traffic laws.

Second, a great deal of time was spent regarding “Pursuit Initiation”, and in particular, whether pursuits should be permitted for offenses other than “forcible felonies”. The committee struggled with a valid definition of “forcible felonies”. It was determined that best practices are to severely limit pursuits for offenses other than forcible felonies as defined in the policy. That definition includes the crime of burglary, which technically does not involve force—they determined that it is unrealistic and bad policy to prevent officers from pursuing a burglary suspect in all situations. One exception to limiting pursuits to “forcible felonies” is where the suspect is mentally ill (if the mental illness is known to the officer) or suicidal, and the officer reasonably believes that they are a danger to themselves or others to the extent that failing to apprehend the subject is likely to result in death or serious bodily injury to themselves or others. A second exception is where the driving ability of the suspect is so impaired or so reckless (e.g., DUI, medical infirmity, a very young driver) prior to initiating the pursuit that it is likely to result in death or serious bodily injury to themselves or others.

Third, pursuits that are initiated and perpetuated by suspects fleeing and eluding a lawful stop were discussed. The typical scenario is that a traffic stop is initiated, the suspect flees at a high rate of speed, and the officer begins a pursuit. There is a difficult balance that requires split second decisions by the officer to determine whether the danger to others created by the actions of the suspect outweigh the dangers created by a pursuit. While reluctant to place that burden on officers, in the end it was determined that this is required in order to have a pursuit policy that emphasizes that the danger to the public created by a pursuit must be foremost in the mind of the officer at all times. Consequently, it was determined that the felony of Fleeting and Eluding, in and of itself, is not justification for a pursuit.

Fourth, situations where a suspect operated his vehicle the wrong way on a one-way street or on a divided highway were considered. It was decided that a blanket prohibition of a “wrong way pursuit” would not work—there may be extraordinary circumstances where pursuit is the lesser of potential evils. For example, if a murder suspect enters a one-way street that is only a block or two long in the middle of the night in a sleepy neighborhood, the risk to the public of continuing the pursuit is small. Another example is where the suspect enters the wrong way on a divided highway; whether the risk of following on a parallel roadway with emergency lights might distract innocent motorists was considered, and whether following the wrong way with lights would increase or decrease the potential harm to other motorists. It was decided to strongly discourage wrong way pursuits without a complete prohibition.

Fifth, it was emphasized that officers are under no legal obligation to initiate a pursuit and that an officer who makes a decision not to pursue or to terminate a pursuit will not be disciplined, second-guessed, nor subjected to inappropriate criticism. The obvious purpose is to encourage officers to weigh the risks of a pursuit and encourage them to be cautious.

Sixth, one of the concerns was the complexity of this model policy. Although the goal was to create a policy about which officers can be easily trained, this topic demands a detailed policy. To alleviate the complexity, uniform language and terminology was attempted to be provided. Additionally, whether Intervention Techniques/Tactics should be in this policy at all was debated, since these may be subject to separate policies in some departments. However, it was decided that inclusion of this section was necessary given that some departments may not have policies regarding specific techniques.

Finally, no “model” policy can meet all the needs of any given law enforcement agency. This model policy should serve as a starting point, to be reviewed, revised, and approved by the Chief/Superintendent, your municipality and insurance carrier to coincide with department size, population density and other unique characteristics of your community before being implemented.
MODEL PURSUIT POLICY

1. PURPOSE

The purpose of this policy is to provide police officers with guidelines on Pursuit Driving and related activity. Changes in law and procedure, as well as training provided on this procedure, will give rise to modifications and updates.

2. GENERAL CONSIDERATIONS

All police officers should have the goal to minimize the likelihood of pursuits. An officer's initial effort to affect a traffic stop/apprehend an offender shall not, in and of itself, constitute a pursuit. When possible and without creating a threat to the officer or public, prior to initiating a stop, an officer should consider whether it is tactically the best time and place to initiate the stop.

A motor vehicle pursuit is justified only when the necessity of immediate apprehension outweighs the level of danger created by the pursuit.

Every officer must always weigh the benefits of immediate capture with the risk inherent to the pursuit itself.

3. DEFINITIONS

Avenue of Escape: A gap in a roadblock which requires the violator to decrease the vehicle's speed to permit the violator to bypass the roadblock.

Boxing-in: (Also known as Blocking) A slow-speed coordinated maneuver where two or more vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop. The goal is containment and preventing a pursuit. Boxing-in is not a moving or stationary roadblock.

Caravan or Caravanning: Direct participation in, or following of, a pursuit by emergency vehicles other than the primary and authorized secondary units.

Divided Highway: A road which includes a physical barrier between traffic traveling in opposite directions.

Forcible Felony: For the purposes of this policy, a forcible felony involves actual or threatened force, violence, serious bodily injury, or death, which may include:

- Murder
- Voluntary Manslaughter
- Arson – Endangering Persons
- Aggravated Assault causing serious bodily injury
- An act of terrorism incident involving a weapon of mass destruction.
- Sexual Assault
- Rape
initiating unit (officer): The police unit (officer) that initiates the pursuit.

Motor Vehicle Pursuit: An active attempt by a police officer operating a motor vehicle to apprehend one or more occupants of a motor vehicle when the driver of the vehicle is resisting the apprehension by maintaining or increasing his speed, or using evasive tactics, or by ignoring the police officer's audible or visual signal to stop. [75 pa. c.s. §6341] For the purposes of this policy, an attempt by a police officer to stop any motor vehicle operating in conformance with posted speed limits and other traffic laws shall not be considered a Motor Vehicle Pursuit.

Paralleling:

Street Paralleling: Driving a police vehicle on a street parallel to a street on which a pursuit is occurring.

Vehicle Paralleling: A deliberate tactic by one or more patrol vehicles to drive alongside the pursued vehicle while it is in motion.

Primary Unit: The police unit immediately following the suspect vehicle at a reasonable distance that assumes primary control of the pursuit.

Pursuit Intervention Technique or Precision Immobilization Technique (PIT): A low-speed maneuver designed to cause the suspect vehicle to spin out, stall and come to a stop.

Pursuit-rated (vehicle): An authorized emergency vehicle that is specially designed and equipped for use during high-speed pursuits.

Ramming: Legal intervention technique consisting of the deliberate act of contacting a suspect's vehicle with another law enforcement vehicle to functionally damage or otherwise force the suspect's vehicle to stop. This action shall be considered use of deadly force.

Road Block: A deliberate obstruction by physical means at one or more selected points on a roadway, which may be employed for a number of different purposes.

Secondary Unit: Any police unit that becomes involved as a backup to the primary unit and follows the primary unit at a safe distance.

Serious Bodily Injury: Bodily injury, which creates substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ [18 pa. c.s. §2301].

Terminate: To discontinue a pursuit or stop chasing fleeing vehicles.

Termination Point: The location where the pursuit comes to a conclusion.

Tire Deflation Device (TDD): A device designed and intended to produce a controlled deflation of one or more tires of a pursued vehicle, and capable of operation consistent with criteria established in this policy.
Trail or Trailing: The unauthorized following of a pursuit at any distance, to include paralleling, intercepting, or tracking.

4. LAW
   a. Pennsylvania Motor Vehicle Code, Title 75
      i. Section 6342 (a): Each police department shall develop and implement a written emergency vehicle response policy governing the procedures under which a police officer should initiate, continue, and terminate a motor vehicle pursuit. This policy may be the model policy endorsed by a national or state organization or association of police chiefs or police officers. The written policy shall incorporate the guidelines under this section.
      ii. Section 6342 (e): A policy adopted under this section shall be confidential and shall not be made available to the general public.
      iii. Section 3105: Required Use of Audible and Visual Signals. The privileges granted in Section 3105, shall apply only when the vehicle is making use of an audible signal and visual signals and the driver of the emergency vehicle is driving with due regard for the safety of all persons.
          1. Officers may exceed the maximum speed limits so long as the driver does not endanger life or property.
          2. Officers may proceed past a red signal indication or stop sign, but only after slowing down as may be necessary for safe operation.
          3. School Busses. Officers must come to a complete stop when a school bus flashes its red signal lights and activates a stop signal. The vehicle pursuit may continue only after exercising due caution for the safety of students.

5. PROCEDURES
   a. Pursuit Initiation
      i. Vehicle pursuits for summary, misdemeanor or non-forcible felony offenses are prohibited unless the immediate danger to another person created by the pursuit is less than the immediate or potential danger of death or serious bodily injury to another person should the suspect remain at large and/or continue to flee.
      ii. Vehicle pursuits are authorized only when, based on the totality of the circumstances, an officer who is in close proximity to a suspect reasonably believes:
          1. the suspect did commit or attempt to commit a forcible felony; or
          2. the suspect is mentally ill (if the mental illness is known to the officer) or suicidal, and the officer reasonably believes that they are a danger to themselves or others to the extent that failing to apprehend the subject is likely to result in death or serious bodily injury to themselves or others; or
3. The driving ability of the suspect is so impaired or so reckless, prior
to initiating the pursuit, that it is likely to result in death or serious
bodily injury to themselves or others.

iii. The felony violation of Fleeing and Eluding, in and of itself, is not
justification for a pursuit.

b. Pursuit Considerations and Pursuit Driving

i. Police Officers are under no legal obligation to initiate a pursuit.

ii. Any officer who makes a decision not to pursue or to terminate his
involvement in a pursuit will not be disciplined, second guessed nor
subjected to inappropriate criticism.

iii. In deciding whether to initiate or continue a pursuit, an officer must
consider the following factors:
   1. whether justification to initiate the pursuit exists;
   2. the seriousness of the offense;
   3. whether the suspect’s identification and address are known,
      thereby making available an alternate means of arrest (e.g. by an
      arrest warrant);
   4. road configuration (e.g., interstate, divided highway, work zones);
   5. physical location and population density (e.g., residential area,
      school zone, business district);
   6. day of week, time of day;
   7. existence of vehicular and pedestrian traffic;
   8. lighting and visibility;
   9. weather and environmental conditions;
   10. the relative performance capabilities of the pursuit vehicle and
      the vehicle being pursued (e.g., pursuit-rated police vehicle);
   11. officer ability, training, experience, and familiarity with the pursuit
      area;
   12. speed and evasive tactics employed by the suspect;
   13. the presence of other persons in the suspect vehicle;
   14. any other condition or situation that would create an
      unreasonable risk.

iv. An active pursuit will normally involve not more than two (2) police
vehicles: the primary police vehicle, and one secondary police vehicle.
   1. “Caravanning” is not permitted. No other police vehicles will
      “caravan” behind the secondary unit. Additional support police
      vehicles may be utilized to provide peripheral assistance to the
primary and secondary vehicles, (e.g., to clear intersections, deploy tire deflation devices or assist in a foot pursuit).

2. Officers involved in a pursuit shall not engage in vehicle or street paralleling.

v. During pursuit, a safe distance shall be maintained between all involved vehicles enabling the pursuing officers to duplicate any sudden turn and reduce the possibility of a collision in the event of a sudden stop.

vi. If the primary police vehicle becomes disabled, the secondary police vehicle will become the primary unit and, if available, the Shift Supervisor/OIC will assign another vehicle as secondary.

vii. The pursuing officers and Shift Supervisor/OIC must continuously assess the benefits of continuing the pursuit. Any officer in the primary or secondary vehicle can terminate the pursuit at any time, regardless of rank.

viii. Under no circumstances shall police vehicles with civilian passengers (including prisoners) become involved in a pursuit.

ix. **Intersections:** are extremely dangerous; caution and common sense are to be used when proceeding through intersections where the traffic may have the right of way. An officer shall proceed through an intersection only after slowing down as may be necessary for safe operation. Emergency lights and sirens only signal vehicles in the immediate path of the pursuit to pull over and yield the right-of-way; they are not to be depended upon to stop cross-traffic at an intersection.

x. **One-way Streets and Divided Highways:** officers shall take all necessary precaution to avoid operating a vehicle the wrong way on a divided roadway. This action is extremely dangerous and may result in tragedy. Nor should an officer pursue a vehicle the wrong way on a one-way street due to the risk of danger to the public and to the officer(s). If, however, facts and circumstances present themselves to require either action, the officer must be able to **justify their actions** and show that all possible safety for the public and the pursuing officer was taken into account.

c. **Pursuit Termination**

i. All pursuing officers shall discontinue and the Shift Supervisor/OIC shall terminate the pursuit when:

1. directed to do so by a primary or secondary pursuing officer or a Supervisor/OIC;

2. the hazards of exposing the officer(s), public, or suspect to unnecessary dangers are greater than the danger posed by continuing the pursuit or permitting the suspect(s) to escape apprehension;

3. the pursuing officer knows, or is reasonably certain he/she knows the identity of the person being pursued;
4. it becomes apparent that the pursuit is futile;
5. the location of the pursued is no longer known;
6. the pursuing officer loses contact with radio dispatch;
7. the pursuing police vehicle sustains damage or a mechanical failure that renders it unsafe to drive;
8. the pursuing police vehicle’s emergency lights or siren are not functioning;
9. the pursuing officer is unresponsive to requests for updates.

ii. When notified that either a Supervisor/OIC or a pursuing officer has terminated a pursuit, all assisting officers will immediately terminate the pursuit.

d. Pursuit Vehicles

i. When available, a marked, pursuit-rated patrol vehicle having emergency lights and audible signals shall be used to pursue, particularly as the primary unit. When a pursuit is initiated by other than a marked, pursuit-rated patrol vehicle, such vehicle shall disengage when a marked, pursuit-rated patrol vehicle becomes available.

ii. Unmarked vehicles which are properly equipped with emergency lights and siren may act as the primary unit only until a marked unit can assume primary unit duties. The unmarked vehicle shall yield to the first arriving marked unit and then assume the responsibility of a secondary unit until such time as another marked unit arrives to relieve the unmarked unit. The unmarked unit shall disengage when two marked units are in place.

iii. Motorcycles and special purpose vehicles (e.g. pick-up trucks, vans) should not be used for pursuits except in exigent circumstances and when weather and related conditions allow. These units shall disengage when support from marked patrol units becomes available.

iv. Officers operating vehicles not equipped with emergency lights and siren are prohibited from initiating or joining in any pursuit. Officers in such vehicles may provide support to pursuing vehicles as long as the vehicle is operated in compliance with all traffic laws. Those officers should discontinue such support immediately upon arrival of a sufficient number of authorized emergency police department vehicles or any air support.

e. Initiating Officer/Primary Unit Responsibilities

i. If a pursuit is initiated, the pursuing officer shall immediately activate emergency lights, audible signals, and camera, and immediately inform the radio dispatcher:

1. that a pursuit has been initiated;
2. the location, direction of travel, and speed of the suspect vehicle;
3. the vehicle description and, if possible, license plate information;
4. the identity and/or description of the driver and number of occupants;

5. the continuous progress of the pursuit;

6. upon arrival of a secondary unit consider relinquishing communication responsibilities to the secondary unit.

ii. If ordered by a supervisor to relinquish the primary unit duties to another police unit, immediately withdraw from the pursuit, and provide support as directed.

iii. If the initiating/primary unit loses sight of the suspect vehicle, terminate the pursuit immediately, and notify radio dispatch. Broadcast pertinent information and begin a search of the area where suspect vehicle was last seen.

iv. If the secondary unit or any Supervisor/OIC terminates the pursuit, disengage from the pursuit immediately, deactivate the emergency lights and siren, and safely stop the police vehicle.

v. If a pursued vehicle is found unattended, it should be secured and treated as a crime scene.

f. Secondary Unit Responsibilities

i. Upon joining the primary unit, identify to the Communications Center as the secondary unit.

ii. Maintain visual contact but remain a safe distance behind the primary unit.

iii. Prepare to assume all communication responsibilities such as reporting the continuous progress of the pursuit.

iv. **DO NOT PASS** the primary unit unless requested to do so by that unit, or if other conditions exist, such as mechanical malfunction, etc.

v. Back up and support the primary unit officer(s) consistent with this directive.

vi. If either the primary unit or any Supervisor/OIC terminates the pursuit, disengage from the pursuit immediately, deactivate the emergency lights and siren, and safely stop the police vehicle.

vii. If a pursued vehicle is found unattended, it should be secured and treated as a crime scene.

g. Air Support

i. Air support assistance, if available, should be considered.

ii. If air support becomes involved, once the crew has established visual contact with the pursued vehicle, they should assume communication control over the pursuit. The primary and secondary ground pursuit vehicles, or involved Supervisor/OIC, will maintain operational control but should consider whether the participation of air support warrants their continued close proximity and/or involvement in the pursuit.
iii. If the air support determines that it is unsafe to continue the pursuit, they can terminate the pursuit.

h. **Shift Supervisor/OIC Responsibilities**

i. The Shift Supervisor/OIC shall be responsible for managing all vehicular pursuits to include determining whether the pursuit should continue or be terminated.

ii. Direct and control the pursuit and apprehension efforts by:

1. evaluating the primary/initiating unit’s justification for commencing and continuing the pursuit;

2. immediately terminating the pursuit, if necessary, considering all the facts and circumstances as set forth in this policy;

3. monitoring all radio transmissions, ensuring the Communications Center is kept informed of location, direction, speed, weather and road conditions, vehicle, and pedestrian traffic, etc.;

4. limiting the involvement and radio use by other units;

5. coordinating and directing activities as needed to ensure that proper procedures are being used and followed, to include ensuring that:
   (i) no more than the necessary number of units are involved;
   (ii) the appropriate radio channel is being utilized;
   (iii) surrounding jurisdictions have been notified; and
   (iv) the pursuit is terminated when necessary;

6. coordinating other units to respond to strategic locations to possibly assist in the apprehension of the suspect(s); and

7. arriving at the scene of any apprehension as soon as practical to ensure that arrests are made in accordance with department policy.

iii. If the pursuit was terminated, contact the primary unit and secondary unit and ensure compliance with the order to terminate the pursuit and safely stop the vehicles.

iv. The Shift Supervisor/OIC may join the initiating officer in the pursuit, when appropriate and in compliance with this policy.

v. The Shift Supervisor/OIC shall approve the use of Ramming, Road Blocks, Boxing-In, TDDs, and other pursuit intervention techniques.

i. **Responsibilities of Communications Center Personnel**

i. If the pursuit is confined within the Municipality limits, radio communications will be conducted on the primary police channel unless instructed otherwise by a Supervisor/OIC or dispatcher.
ii. Upon notification or becoming aware that a pursuit has been initiated, the dispatcher is responsible for:

1. clearing the radio channel of non-emergency traffic;
2. coordinating pursuit communications of the involved officers;
3. broadcasting pursuit updates as well as other pertinent information as necessary; and
4. logging all pursuit activities.

j. Officers Not Involved in The Pursuit

i. Officers who are not involved in the pursuit should remain in their assigned areas, should not parallel the pursuit route, and should not become involved with the pursuit unless directed otherwise by a Supervisor/OIC.

ii. Uninvolved officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Those officers should attempt to place their vehicles in locations that provide some safety or an escape route in the event of an unintended crash or if the suspect intentionally tries to ram the police department vehicle.

iii. The primary pursuit vehicle and secondary pursuit vehicle should be the only vehicles operating under emergency conditions (emergency lights and siren) unless other officers are assigned to the pursuit.

iv. Non-pursuing members needed at the pursuit termination point shall respond (e.g. emergency or non-emergency manner) as appropriate to the request/necessity for assistance.

k. Inter-Jurisdictional Pursuits

i. Pursuit into another jurisdiction

1. If the pursuit leaves the jurisdiction of this department or such is imminent, and communications personnel cannot patch these jurisdictions over to our channel, involved officers should, when safe to do so, switch radio communications to a tactical or emergency channel most accessible by participating agencies.

2. When a pursuit enters another agency's jurisdiction, the primary pursuing officer or Supervisor/OIC taking into consideration the distance traveled, unfamiliarity with the area, and other pertinent facts, should determine whether to request the other agency to assume the pursuit.

3. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that communications personnel ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether the jurisdiction is expected to assist.

ii. Assumption of pursuit by another agency
1. Officers will relinquish control of the pursuit when another agency has assumed the pursuit, unless their continued assistance is requested by the agency assuming the pursuit.

2. Upon relinquishing control of the pursuit, the involved officers may proceed, with supervisory approval, to the termination point of the pursuit to assist in the investigation. The Supervisor/OIC should coordinate such assistance with the assuming agency.

3. The roles and responsibilities of officers at the termination point of a pursuit initiated by this department shall be coordinated with appropriate consideration of the needs of the agency assuming the pursuit.

4. Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific.

iii. Pursuits extending into this jurisdiction

1. The agency that initiates a pursuit shall be responsible for conducting the pursuit. Officers from this department should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a Supervisor/OIC.

2. The exception to this is when a single vehicle from the initiating agency is in pursuit. Under this circumstance, an officer from this department may, with supervisor approval, immediately join the pursuit until sufficient vehicles from the initiating agency join the pursuit or until additional information is provided allowing withdrawal from the pursuit.

3. When a request is made for this department to assist in a pursuit that has entered our jurisdiction, the Supervisor/OIC should consider whether the pursuit meets our department's criteria for a pursuit, and may either accept or decline involvement.

4. Assistance to a pursuing agency by officers of this department will conclude at the Municipal limits, provided that the pursuing agency has sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

5. In the event that the termination point of a pursuit from another agency is within this jurisdiction, officers shall provide appropriate assistance including, but not limited to, scene control, and any other assistance requested or needed.

I. Intervention Techniques/Tactics

i. General Considerations: Whenever practicable, an officer shall seek approval from a Supervisor/OIC before employing any intervention techniques. In deciding whether to use intervention techniques, officers/supervisors should balance the risk of allowing the pursuit to continue with the potential hazards arising from the use of each technique to the
public, the officers and persons in or on the pursued vehicle. With this in mind, the decision to use any intervention technique should be reasonable in light of the circumstances apparent to the officer at the time of the decision.

ii. Techniques:

1. Use of Firearms (See Use of Force Policy)

   (i) The use of firearms to disable a pursued vehicle is not generally effective and involves all the responsibilities and dangers associated with discharging firearms.

   (ii) Shots fired at or from a moving vehicle are prohibited, except in situations when the use of deadly force is justified. Officers should not fire at a moving vehicle, its tires, etc., with the intent of rendering it inoperable because of the hazard an uncontrollable vehicle would pose to innocent bystanders. However, this does not preclude firing at the occupants inside the vehicle when the occupants are using deadly force against the officer or others, generally by means other than the vehicle itself.

   (iii) Police officers should not place themselves in the path of a moving vehicle, nor remain in the potential path of a temporarily stopped vehicle. When possible, officers should move from the path of an approaching vehicle to avoid situations wherein the use of deadly force may be necessitated.

2. Road Blocks

   (i) Road blocks should only be utilized in circumstances where deadly force would otherwise be justified.

   (ii) The decision to establish a road block shall be made or approved by the Shift Supervisor/OIC.

   (iii) The use of a road block must be directly associated with the seriousness of the crime for which the suspect is wanted, and the road block erected only when it is apparent that innocent persons will not be endangered. Ideally, it should afford clear visibility to traffic in all directions and to all highway users.

   (iv) If a road block is employed, the officer shall activate the emergency lights on the vehicle being used as a road block and exit the vehicle and proceed to an area of safety. At no time, will an officer remain with a vehicle that has been deployed as a road block.

   (v) Police vehicles used in road blocks should be positioned in such a way that headlights, takedown lights, and spot lights shall not be directed into the pursued vehicle.
Any road block that is employed should ideally be placed in a location where the operator of the pursued vehicle would have adequate opportunity to see the road block placed ahead of him, giving the pursued vehicle time to stop safely, or to slowly maneuver through the roadblock.

An avenue of escape through the road block must be established. The escape route must be established in such a manner to allow the pursued vehicle (and pursuing police vehicles) to maneuver through the road block at a reasonable speed. Approved controlled tire deflation devices (TDDs) may be deployed across the avenue of escape route.

Unmarked police vehicles should not be used as the primary vehicle for a road block unless exceptional circumstances require such usage for the safety of the public.

3. Tire Deflation Devices (TDDs)

(i) When time permits and safety considerations are met, with the approval of a Supervisor/OIC, the use of the controlled tire deflation device (TDD) is permitted. However, prior to deploying this device, the following criteria should be met:

- the TDD shall not be used to stop motorcycles, mopeds or similar two-wheel vehicles;
- other reasonable means of termination have been considered and officers reasonably believe the risks involved in continuing the pursuit outweigh the risks associated with the use of the TDD;
- the officer has been trained in the use and deployment of the device as recommended and established by the manufacturer;
- if possible, the pursuing officers / agency will be notified of and acknowledge that the TDD is going to be deployed, and of the approximate location;
- the deploying officer shall exercise caution in an effort to reduce the possibility of damage or injuries to uninvolved vehicles and pedestrians;
- the deploying officer shall be in a position at a predetermined location to allow sufficient time for deployment; after deployment, the officer(s) shall immediately seek an area of safety;
- when safe to do so, the deploying officer should remove the device from the roadway once the suspect’s vehicle crosses over;
• officers shall not attempt to overtake and pass a high speed pursuit in order to deploy the TDD;

• the use of the TDD in a stationary vehicle situation is permitted to prevent a vehicle from being moved by a suspect attempting to flee a scene;

• unless the continued movement of the pursued vehicle would result in an unusual hazard to others, a TDD should not be deployed to stop the following vehicles:

  1. school buses transporting students;
  2. passenger buses transporting passengers;
  3. vehicles carrying hazardous loads, fuel, etc.

4. Pursuit Intervention Technique or Precision Immobilization Technique (PIT)

(i) The PIT is limited to use by properly trained officers with the approval of a Supervisor/OIC and upon assessment of the circumstances and conditions presented at the time, including the potential for risk of injury to officers, the public, and occupants of the pursued vehicle.

5. Boxing-In

(i) Because of the potential risks involved, this intervention technique shall only be employed by properly trained officers, with the approval of a Supervisor/OIC, and after giving consideration to the following:

  • the suspect vehicle is stopped or traveling at a low speed; and

  • other reasonable intervention tactics have failed or reasonably appear ineffective.

6. Ramming

(i) **Ramming shall constitute the use of deadly force** and shall only be used to effect the lawful apprehension arrest of a person(s) with approval of a Supervisor/OIC and when both of the following conditions have been met:

  • the officer reasonably believes the suspect poses an imminent threat of death or serious bodily injury to others unless apprehended without delay; and

  • other reasonable intervention tactics have failed or reasonably appear ineffective.
j. Administrative Review

i. Every officer involved in a pursuit as a primary, secondary or support unit shall complete required written report(s) to the Chief of Police as to their involvement in the pursuit.

ii. A debriefing of officers involved in a pursuit will be conducted as soon as possible after termination of the pursuit. This is not for disciplinary purposes, but as a tool to evaluate the pursuit and the pursuit policy of the agency.

iii. In addition to department reporting requirements, a Pennsylvania State Police Pursuit Report will be completed by the responsible officer and submitted to the Chief no later than the end of the officer’s next full tour of duty. The Chief or designee will review and forward the report electronically to the Pennsylvania State Police for statistical reporting purposes within five (5) days of the pursuit.

iv. As part of the administrative review, an annual analysis of all pursuits will be conducted and documented by the Chief or designee. This analysis will look towards any patterns or trends with agency involved pursuits, and any training or policy changes that may need to be addressed.

k. Training

i. All officers should attend periodic training addressing the requirements and restrictions of this policy. Training will include recognition of the need to balance the known offense and the need for immediate capture against the risks to public, officers, and suspects.

l. Policy Review

i. Officers of this department shall certify in writing that they have received, read, and understand this policy initially, upon any amendments, and whenever training on the policy is provided.

SAMPLE PURSUIT POLICY QUIZ

1. A motor vehicle pursuit is justified only when the necessity of immediate apprehension ___________________________ the level of danger created by the pursuit. Every officer must always weigh the benefits of immediate capture with the risk inherent to the pursuit itself.
2. The privileges granted in Section 3105, shall apply ________ when the vehicle is making use of an audible signal and visual signals and the driver of the emergency vehicle is driving with due regard for the safety of all persons.

3. Vehicle pursuits for summary, misdemeanor or non-forcible felony offenses are ____________ unless the immediate danger to another person created by the pursuit is less than the immediate or potential danger of death or serious bodily injury to another person should the suspect remain at large and/or continue to flee.

4. Vehicle pursuits are authorized only when, based on the totality of the circumstances, an officer who is in close proximity to a suspect reasonably believes:
   a. the suspect did commit or attempt to commit a ________________ ________________; or
   b. the suspect is mentally ill (if the mental illness is known to the officer) or suicidal, and the officer reasonably believes that they are a ________________to themselves or others to the extent that failing to apprehend the subject is likely to result in death or serious bodily injury to themselves or others; or
   c. the driving ability of the suspect is so impaired or so reckless, ________________ to initiating the pursuit that it is likely to result in death or serious bodily injury to themselves or others.

5. The felony violation of Fleeing and Eluding, in and of itself, is ________ justification for a pursuit.

6. Any officer who makes a decision not to pursue or to terminate his involvement in a pursuit ________ _________ be disciplined, second guessed nor subjected to inappropriate criticism.

7. An active pursuit will normally involve not more than _________ police vehicles.
8. A pursuit shall be terminated when the hazards of exposing the officer(s), public, or suspect to unnecessary dangers are ________________ than the danger posed by continuing the pursuit or permitting the suspect(s) to escape apprehension.

9. When notified that either a Supervisor/OIC or a pursuing officer has terminated a pursuit, all assisting officers will ________________ terminate the pursuit.

10. Shots fired at or from a moving vehicle _______ _______________, except in situations when the use of deadly force is justified.

**ANSWERS**

1. outweighs
2. only
3. prohibited,
4. a. forcible felony,  b. danger,  c. prior
5. not
6. will not
7. two (2)
8. greater
9. immediately
10. are prohibited
In Pennsylvania, the default position is that a warrant must be obtained for all searches. Pennsylvania has a limited automobile exception under Article I, Section 8 of our Constitution, pursuant to which warrantless vehicle searches require BOTH Probable Cause and Exigent Circumstances; “one without the other is insufficient.”

COMMONWEALTH OF PENNSYLVANIA, v. KEITH ALEXANDER, Decided December 22, 2020

ACCPA-CJAB-DA MODEL
Revised TRAFFIC STOP POLICY

The primary emphasis of a Police-Citizen encounter should not be on the race/ethnicity or gender of the person being stopped, but the focus should be whether the stop was based on **"Reasonable Suspicion" or "Probable Cause" that criminal activity may be afoot or a violation of the Motor Vehicle Code has occurred. (*ATTACHMENT #1) (**ATTACHMENT #2)

It is unethical and illegal to stop, issue a citation or arrest an individual or motorist based solely on his/her race/ethnicity or gender. Factors of race, gender, and ethnicity, when used to describe a criminal suspect, can of course be used to justify stopping an individual who fits the description of the alleged perpetrator. (i.e. a broadcast that two (2) white males with red hair just robbed a store and drove away in a gray van would justify an Officer stopping a vehicle where the occupants fit that description).

When an officer stops a vehicle operated by a person whose operating privilege is suspended, as always it is the discretion of the officer what action to take. Four (4) possible options are:

(1) If a licensed driver is a passenger or readily available, after the traffic stop is completed and with the owner’s consent, allow that person to operate the vehicle,

(2) Allow the vehicle to be secured (parked) in place until retrieved by a licensed driver with the owner’s consent. The relevant requirement for purposes of securing are the person operates a vehicle while the person’s operating privilege is suspended and the vehicle does not pose public safety concerns. A vehicle which has simply been secured (parked) in place is not in the lawful custody of police for the purpose of an inventory search.

(3) Immobilize. When the vehicle does not pose a public safety concern and the driver's operator's privilege has been suspended, the vehicle may be immobilized. If the officer choses to immobilize the vehicle the requirements pursuant to Pennsylvania MVC section *** 6309.2(a)(1) must be followed An immobilized vehicle is not subject to an inventory search unless all requirements of 6309.2(a)(1) are followed (**ATTACHMENT #3).

(4) If the vehicle poses public safety concerns, have it towed and stored at an impound lot. The relevant requirement for purposes of towing are the person operates a vehicle while the person’s operating privilege is suspended and the vehicle does pose public safety concerns.
01. **PURPOSE**

The purpose of this policy is to provide Police Officers with guidelines on Traffic Stops and possible related activity. Changes in law and procedure, as well as training provided on this procedure, will give rise to modifications and updates.

02. **POLICY**

When an Officer has “*Reasonable Suspicion*” or “**Probable Cause**” to believe that criminal activity may be afoot or a Motor Vehicle Code violation has occurred, appropriate corrective action should be taken and a stop for investigatory purposes is justified. (*Attachment #1) (** Attachment #2).

It should be understood that there are no “Routine” Traffic Stops. This is not to say that a courteous demeanor and professional attitude should not be displayed whenever possible; however, Officer Safety is paramount and is a primary objective. It is critically important that documentation be kept of ALL “Traffic Stops” made by this Department. For Officer Safety and documentation purposes, an entry shall be made on the “Daily Log” under “Traffic Enforcement,” documenting any traffic stop and action taken. The following procedures shall be adhered to when any traffic stop is made:

03. **ALPHABET CODE**

To help clarify communications the following code should be used by members of this Department for the purpose of radio transmissions:

- A = Alpha
- B = Bravo
- C = Charlie
- D = Delta
- E = Echo
- F = Foxtrot
- G = Golf
- H = Hotel
- I = India
- J = Juliet
- K = Kilo
- L = Lima
- M = Mike
- N = November
- O = Oscar
- P = Papa
- Q = Quebec
- R = Romeo
- S = Sierra
- T = Tango
- U = Uniform
- V = Victor
- W = Whiskey
- X = X-Ray
- Y = Yankee
- Z = Zulu

04. **TRAFFIC STOPS**

a. The “in car camera” will be activated and remain activated until all action associated with the traffic stop is completed. (See Mobile Video Policy).

Although notice is not required by law, in certain circumstances it may prove beneficial to provide notice of the recording, using a phrase such as, “Our actions and words are being recorded.” Such notice may assist to deescalate confrontational situations.
b. The Officer will notify the Dispatch Center of the stop, location, vehicle registration, make, model, and color.

c. When possible, the number of occupants, gender, and race will be given to Dispatch.

d. The reason for the stop will also be given to Dispatch.

e. When physically possible, another Officer will proceed to the scene of the traffic stop in a safe manner and provide back-up.

f. The location of the traffic stop should dictate the type of safety measures the Officer will take in protecting himself/herself and others. An approach from the passenger side of a vehicle should be considered and utilized when the location is along a heavily traveled highway, or when the occupant(s) of the vehicle are acting in a peculiar manner. The passenger side approach gives the Officer a better view of the interior of the vehicle and if necessary, may give the Officer a tactical advantage. Particular attention to safety precautions should be paid in the event an Officer makes a traffic stop or renders assistance in any way on any interstate or high speed highway.

g. As always, it is the discretion of the Officer making the stop whether a state citation or a written warning is issued. However, a violation(s) of the MVC should be documented by either a state citation or a written warning notice for the appropriate violation(s). Verbal warnings provide no statistical or documentation data and should be used only in the rarest of occasions. If a verbal warning is given, it will be documented on the Daily Log under the original “Traffic Enforcement” entry.

h. If, in the course of a traffic stop, a request for consent to search is sought and is granted, then the results of such a search will be documented, in an Extended Narrative portion of the Daily Log under the original “Traffic Enforcement” entry or in the narrative section of a report, should a report be necessary.

1. All attempts to have a Voluntary Consent Search Form signed will be made. However, if a Voluntary Consent Search form is not signed, and the search takes place with a verbal consent, the verbal consent will be documented. Attachment #4.

2. Before requesting consent to search the Officer should ensure that the traffic stop has ended and a custodial situation does not exist. The operator must feel free to leave, and it is required that all paperwork (Driver’s License, Vehicle Registration, and Proof of Insurance) be returned before making a request for a warrantless search. If consent to search is sought before the traffic stop has ended or during a custodial situation, then the Officer must possess either articulable suspicion that criminal activity is afoot (other than the conduct which initially justified the traffic stop) or Probable Cause to believe a crime has been or is being committed before seeking the suspect’s voluntary consent to search. The signing of the Voluntary Consent Search Form is evidence that the consent to search was voluntary.
Search of a Vehicle

In Pennsylvania, the default position is that a warrant must be obtained for all searches. Pennsylvania has a limited automobile exception under Article I, Section 8 of our Constitution, pursuant to which warrantless vehicle searches require BOTH Probable Cause and Exigent Circumstances; “one without the other is insufficient.”

Police Officers shall consider the following procedures when initiating a search of a vehicle, including containers within a vehicle:

i. Pennsylvania Supreme Court recognizes a limited automobile exception to the warrant requirement which allows police officers to search a motor vehicle only when there are both Probable Cause and Exigent Circumstances to justify the warrantless search.

j. When ample advance information is available that a search of a vehicle is likely to occur in conjunction with the apprehension of a suspect, whenever possible Police Officers shall secure a warrant before searching the vehicle.

k. In a search incident to an arrest, there is no exigency once the suspect is in custody and cannot drive the vehicle away.

l. If probable cause exists to search a vehicle but there are no exigent circumstances, a warrant must be obtained to conduct a search.

i. Vehicles, lawfully stopped on a highway, may also be searched under Pennsylvania law by:

1). Consent

(a). A Police Officer must conclude a lawful motor vehicle stop before a consent to search can be sought. The termination of a motor vehicle stop is determined under the totality of circumstances which includes but is not limited to: whether relevant documents are returned to a driver or whether a driver is informed that he/she is free to leave. Failure to transform the motor vehicle stop into a mere encounter absent reasonable suspicion that other criminal activity is afoot will lead to an invalid consent. However, if a Police Officer develops articulable reasonable suspicion that criminal activity is afoot above and beyond a traffic violation, then consent to search can be sought regardless as to whether the motor vehicle stop has concluded.

2). Plain view

(a). A Police Officer, who is in a lawful position to observe and possesses a right to access may seize items in plain view which are obviously contraband (e.g., guns, drugs). Seizure of plain view contraband may not in itself allow a search of other areas of the car.

3). “Terry” Search
(a). When a Police Officer can articulate facts which lead to a reasonable belief that an occupant may be armed and dangerous (seen furtive movements), the Police Officer may conduct a frisk/pat down of the individual. If the Police Officer has reason to believe that a weapon is in the vehicle and may be used to harm the Police Officer, a brief look into the specific area is permitted but the Police Officer must be able to articulate his/her concerns. The brief cursory search should not extend to other areas of the passenger compartment. **REMEMBER THAT OFFICER SAFETY SHOULD ALWAYS COME FIRST.**

j. At the completion of the traffic stop, the Officer should notify Dispatch that he/she is back in service.

**POSITIONING OF POLICE VEHICLE (UNKNOWN RISK STOP)**

k. 2-3 feet to the left of the suspected violator vehicle.

l. Minimum 15-20 feet to the rear of the suspected violator vehicle. You should be able to see under the vehicle clearly. If something should occur, you may be able to see feet before anything else especially from the passenger side.

m. Utilize spotlights, high beams, and takedown lights which provide concealment especially at night and a passenger side approach is utilized.

05. **HIGH RISK VEHICLE STOPS**

Basic rules can be followed for most High Risk Vehicle Stops that can provide for Officer safety. These procedures may be employed whenever circumstances dictate the high potential for a dangerous confrontation. Officers must use common sense and allow the situation to dictate how and when these procedures are implemented.

a. Advise Police Radio and other units in the area of the potential of resistance or flight on the part of the operator by announcing on the radio your unit number followed by “EMERGENCY.” Officers need to be aware and should not take for granted that communications will automatically clear the air. A request to clear the channel should immediately be made to ensure that Communications are controlled and nonessential traffic is diverted to a secondary channel.

b. Communications should be provided with location, direction of travel, and description of vehicle to include: registration number, make, color, year, model, other identifying characteristics, and number of occupants.

c. All movements of the vehicle and the occupant(s) must be closely watched.

d. The initiating and backup Officers should maintain a safe distance until
just before the stop.

e. Varying conditions regarding particular traffic areas should be taken into consideration prior to the stop.

f. The suspect vehicle will not be stopped until adequate support/backup is available and in position, unless absolutely necessary.

g. When location, conditions and support/backup vehicles are available, the Officer will signal the subject(s) to stop, utilizing all emergency warning devices.

h. When the suspect vehicle begins to stop, the Officer will turn off the siren and activate the public address system.

i. The Officer will position the police vehicle so it provides maximum protection and cover. The police vehicle should be positioned a safe distance to the rear of the suspect vehicle (minimum two car lengths), and to the extreme left of the suspect vehicle.

j. At night, all available lights should be focused on mirrors and the interior of the suspect vehicle.

k. Officers should have their firearms ready for immediate use.

l. Officers should position themselves so as to have access to the public address system and an unobstructed sight picture, while utilizing the police vehicle as cover.

m. The initiating Officer will assume command of the situation and will be the only Officer giving directions to the subject(s), unless relinquished by the initiating Officer. Only one Officer should direct the movement of the subject(s).

n. The initiating Officer, utilizing the public address system, will instruct the operator to turn off the engine and throw the ignition key out of the window or place it on the roof (possible weapon), and have all occupants place their hands in a visible position.

o. The initiating Officer will direct each occupant to remain in this position until instructed to do otherwise.

p. The initiating Officer will direct each occupant to remove themselves from the vehicle individually, according to specific directions, and into the appropriate search position.

q. Each suspect will be cuffed, searched, and moved to a controlled position by a backup Officer, until it is determined that the vehicle is safe to approach.

r. After every suspected occupant is removed from the vehicle, the vehicle is to be approached with caution and searched for anyone who may be concealed inside.
s. Any injured persons will receive immediate medical attention

**BACKUP OFFICERS’ DUTIES**

t. Backup Officers will coordinate their locations and arrivals to coincide with the vehicle stop. The first backup Officer should position his/her patrol vehicle next to the initiating Officer’s vehicle, slightly ahead, avoiding any crossfire.

u. Backup units arriving during a nighttime stop, shall be aware of their police unit’s headlight projection and shall not place their unit(s) in such a manner as to silhouette or spotlight any Officer(s) already engaged and deployed at the scene of the stop. Also, backup Officers responding after engagement has begun should be aware of their siren as it may effect communication already in progress at the scene.

v. Backup Officers will approach from a safe distance avoiding crossfire situations.

w. The initiating Officer will coordinate the handcuffing, searching and removal of the suspects by the backup Officers to a safe place.

x. Backup Officers will be assigned responsibility for control of all suspects after they have been placed in the search position.

06. **PROCEDURE FOR TOWING VEHICLES**

a. No member of this Department shall operate any motor vehicle that is not insured by the municipality.

b. When an Officer initiates a tow for a vehicle for traffic accidents, impoundment, arrest of operator or recovery of a stolen vehicle, a vehicle report will be completed after an inventory of the vehicle has been conducted as outlined below in Section 07.

c. When a motor vehicle is towed incident to an arrest or impoundment, the operator and any passenger(s) of the vehicle should not be left stranded on the roadway or in any location where their safety is in question. Any persons who have not been arrested in connection with the incident or impoundment of the vehicle should be offered transportation to the nearest place of safety within this department’s jurisdiction (convenience store, hotel, etc.). If the person or persons involved refuse transportation, their refusal will be noted in the police report.

d. The Officer will notify the registered owner of the vehicle as to its location and status.

e. If the owner cannot be contacted, a request will be made to the telephone company for assistance in contacting the owner.
f. If the telephone company is unable to assist, the appropriate police agency having jurisdiction in the area where the owner resides will be contacted and a request will be made for their assistance in contacting the owner.

g. If the owner cannot be contacted within twenty-four hours, a certified registered letter should be sent advising him/her of the vehicle’s location and status.

h. All vehicles will be towed by a bonded and insured towing agency.

07. **MOTOR VEHICLE INVENTORY**

A WARRANTLESS INVENTORY SEARCH OF A VEHICLE IS PERMISSIBLE ONLY WHEN THE POLICE HAVE LAWFULLY TOWED AND STORED, OR IMPOUNDED THE VEHICLE.

COURTS WILL NORMALLY REQUIRE DEPARTMENTS TO HAVE A WRITTEN POLICY ON TOWING AND INVENTORY SEARCHES BEFORE THEY WILL ALLOW ADMISSION OF EVIDENCE DISCOVERED DURING AN INVENTORY SEARCH.

IT IS IMPORTANT TO NOTE THAT THE VEHICLE INVENTORY POLICY SHALL NOT BE UTILIZED IN LIEU OF A WARRANTLESS SEARCH OR A SEARCH WARRANT. THE PURPOSE OF THIS POLICY IS TO PROTECT VALUABLES AND PROPERTY BELONGING TO INDIVIDUALS WHOSE VEHICLES ARE TOWED, IMPOUNDED OR SEIZED.

A. It shall be the policy of the department that all vehicles towed, impounded or seized are thoroughly Inventory Searched for valuables.

B. The inventory should be conducted at the location, from where the vehicle is towed, impounded or seized unless limited by safety concerns or practicality. If the vehicle is not inventoried at the scene because of safety concerns, it must be inventoried upon arrival at a safe and secure location.

C. A motor vehicle inventory shall extend to all areas of the vehicle in which personal property or hazardous materials may reasonably be found, including but not limited to the passenger and engine compartment(s), trunk and glove box or other areas attached to the vehicle.

D. All closed containers found in the vehicle shall be opened and inventoried unless the contents can be determined from an examination of the exterior of the container.

E. Closed and locked containers shall not be forced open but should be logged on a Report as such. If a key or lock combination is available, locked containers may be opened and inventoried.
F. When possible, the owner or operator shall be asked to take possession of all valuables discovered during the inventory of the vehicle prior to impoundment. Such possession shall be noted on an Inventory Section of the Report. If the owner or operator cannot take possession of the valuables discovered during the inventory, then they will be inventoried and secured within the vehicle prior to towing. The owner or operator shall be requested, when possible, to verify the completeness of the inventory by signature.

G. All property found inside the vehicle will be recorded on an Inventory Section of the Report. Contraband and evidence discovered during the course of a Motor Vehicle Inventory Search shall be seized and logged in as “Evidence.”

H. Any damage or peculiarities pertaining to the vehicle shall also be documented.

I. All vehicles impounded shall be towed to a secure facility by an insured and bonded towing service.
REASONABLE SUSPICION

AN OFFICER’S SUSPICION BASED ON SPECIFIC FACTS AND INFERENCES, THAT WOULD LEAD A REASONABLE PERSON TO CONCLUDE THAT, SOMEONE BEING STOPPED, MAY HAVE COMMITTED, MAY BE COMMITTING, MAY BE ABOUT TO COMMIT A CRIME.

You must be able to point to specific and articulable facts which, taken together with rational inferences from those facts realistically form the basis of the requisite for reasonable suspicion. It is not based on your mere suspicion or a “hunch,” but to the specific reasonable inferences that you are entitled to draw from the facts in light of your experience.

ATTACHMENT # 1
PROBABLE CAUSE

FACTS OR CIRCUMSTANCES THAT WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT AN OFFENSE HAS BEEN COMMITTED; OR THAT SEIZABLE OBJECTS ARE IN THE PLACE TO BE SEARCHED.
IMMobilization, Towing and Storage of Vehicle For Driving Without Operating Privileges or Registration.

(a) General rule.--Subject to subsection (d), the following shall apply:

(1) If a person operates a motor vehicle or combination on a highway or trafficway of this Commonwealth while the person's operating privilege is suspended, revoked, canceled, recalled or disqualified or where the person is unlicensed, as verified by an appropriate law enforcement officer in cooperation with the department, the law enforcement officer shall immobilize the vehicle or combination or, in the interest of public safety, direct that the vehicle be towed and stored by the appropriate towing and storage agent pursuant to subsection (c), and the appropriate judicial authority shall be so notified.

(2) If a motor vehicle or combination for which there is no valid registration or for which the registration is suspended, as verified by an appropriate law enforcement officer, is operated on a highway or trafficway of this Commonwealth, the law enforcement officer shall immobilize the motor vehicle or combination or, in the interest of public safety, direct that the vehicle be towed and stored by the appropriate towing and storage agent pursuant to subsection (c), and the appropriate judicial authority shall be so notified.

(b) Procedure upon immobilization.--

(1) When a vehicle is immobilized pursuant to subsection (a)(1), the operator of the vehicle may appear before the appropriate judicial authority within 24 hours from the time the vehicle was immobilized. The appropriate judicial authority may issue a certificate of release upon:

(i) the furnishing of proof of registration and financial responsibility by the owner of the vehicle; and

(ii) receipt of evidence that the operator of the vehicle has complied with the pertinent provisions of Title 42 (relating to judiciary and judicial procedure) and this title.

(2) When a vehicle is immobilized pursuant to subsection (a)(2), the owner of the vehicle may appear before the appropriate judicial authority within 24 hours from the time the vehicle was immobilized. The appropriate judicial authority may issue a certificate of release upon:

(i) the furnishing of proof of registration and financial responsibility by the owner of the vehicle; and

(ii) receipt of evidence that the operator of the vehicle has complied with the pertinent provisions of Title 42 and this title.

(3) If a certification of release is not obtained within 24 hours from the time the vehicle was immobilized, the vehicle shall be towed and stored by the appropriate towing and storage agent under subsection (c).
(c) **Procedure upon towing and storage.--**

(1) Except as provided in paragraph (2), the following steps shall be taken:

(i) The appropriate judicial authority shall notify the appropriate law enforcement officer of the county in which the violation occurred.

(ii) The officer notified under subparagraph (i) shall notify the appropriate towing and storage agent to tow and store the vehicle or combination and provide notice by the most expeditious means and by first class mail, proof of service, of the towing, storage and location of the vehicle or combination to the owner of the vehicle or combination and any lienholder and, if applicable, the owner of the load, if the names and addresses of the owner and any lienholder are known or can be ascertained by investigation.

(2) In a city of the first class, the following steps shall be taken:

(i) The appropriate judicial authority or appropriate law enforcement officer shall notify the appropriate towing and storage agent.

(ii) The appropriate towing and storage agent shall tow and store the vehicle or combination and provide notice by first class mail, proof of mailing, of the towing, storage and location of the vehicle or combination to the owner and the lienholder of the vehicle or combination using a reasonably available State database.

(d) **Recovery of towed and stored vehicle.--**

(1) The owner or lienholder of any vehicle or combination which has been towed and stored under this section may obtain possession of the vehicle or combination by:

(i) furnishing proof of valid registration and financial responsibility; and

(ii) (A) if the towing and storage resulted from the operation of the vehicle or combination by the owner, paying all fines and costs associated with the towing and storage of the vehicle or combination and any other than outstanding fines and costs of the owner or making arrangements with the appropriate judicial authority to make payments of all other outstanding fines and costs immediately or, in the discretion of the appropriate judicial authority, by installments as provided by the Pennsylvania Rules of Criminal Procedure; or

(B) if the towing and storage resulted from the operation of the vehicle or combination by a party other than the owner, paying all costs associated with the towing and storage of the vehicle or combination and fines associated with citations issued by the law enforcement officer related to the towing and storage and any other outstanding fines and costs of the owner or making arrangements with the appropriate judicial authority to make payments of all such fines and costs or, in the discretion of the appropriate judicial authority, by installments as provided by the Pennsylvania Rules of Criminal Procedure.

(1.1) In cities of the first class, the appropriate judicial authority shall not issue an order for the release of any vehicle towed and stored pursuant to this section until provisions are made for payment of all fines and penalties associated with violations of any local parking regulation or ordinance or applicable section of this chapter or Chapter 61 (relating to powers of department and local authorities).
(2) Any vehicle not recovered under this subsection may be sold as an unclaimed vehicle, combination or load under section 6310 (relating to disposition of impounded vehicles, combinations and loads). The proceeds of the sale shall be applied to the payment of the fines and costs associated with the towing and storage of the vehicle.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Appropriate judicial authority." In counties of the first class, the Philadelphia Traffic Court. In all other counties, the magisterial district judge in whose district the violation occurred.

"Appropriate towing and storage agent." In counties of the first class, the Philadelphia Parking Authority or its authorized agent. In other municipalities, a towing and storage agent designated by local ordinance.

"Costs." The term shall include reasonable fees.


2005 Amendment. Act 50 amended subsecs. (a), (c)(2) and (d).

2004 Amendment. Act 207 amended the def. of "appropriate judicial authority" in subsec. (e). See sections 28 and 29 of Act 207 in the appendix to this title for special provisions relating to applicability and construction of law.

Cross References. Section 6309.2 is referred to in section 6506 of this title.
I, _____________________________________________, having been informed of my constitutional rights not to have a search made of myself, the premises or motor vehicle mentioned below without a search warrant and, my right to refuse to consent to such search, and that I may revoke my consent to search at any time, hereby authorize Police to conduct a complete search of my person, premises or motor vehicle described as__________________________
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________
These Police Officers are authorized by me to take any letters, papers, materials or other property, which is contraband, or may be used as evidence in criminal proceedings.

I am not unduly under the influence of drugs and/or alcohol.
I am giving this written permission voluntarily and without threats, pressures, coercion or promises of any kind being made to me.

Print Name____________________________________

Signature______________________________________

Location ______________________________________

Date & Time___________________________________

Witnesses:

Police Officer____________________________________________________________

Police Officer____________________________________________________________

ATTACHMENT #4
Summary of Model Mobile Video Recorder Policy Development

On July 7, 2017, Act 22 of 2017 was signed into law, amending the Wiretap Act, the Right to Know Law, and the Judicial Code. Act 22 can be found at 18 Pa.C.S. § 67A01 et seq., and its effective date is September 5, 2017. Act 22 requires that law enforcement agencies establish written policies for police audio and/or video recordings which shall be public. The scope of Act 22 includes Mobile Video Recorders, Body Worn Cameras, and other recordings. The highlights of Act 22 are as follows:

1. Act 22 revises the definition of “Oral Communication” in 18 Pa.C.S. §5702 of the Wiretap Act to specifically exclude communications made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who is using an electronic, mechanical, or other device which has been approved as set forth in the Act. Consequently, the following are no longer applicable to police recordings:
   a. The prohibition on recording inside a residence;
   b. The requirement for police to inform of the recording; and
   c. Civil and/or criminal penalties contained within the Wire Tap Act;
   d. Right to production of recordings made inside a facility owned or operated by a law enforcement agency.

2. Requests for police recordings and agency responses will no longer be made pursuant to the Right to Know Law, 65 P.S. §67.101, et seq. Any requests for audio/video recordings made by law enforcement officers will now be governed by Act 22. Requests for police recordings must be made in writing and served upon the department’s Open Records Officer within (60) days of the recording, stating the date, time, location of the incident and the requestor’s relationship to the recording. You should review and revise your audio/video recording retention policies to insure that you have the ability to respond to requests made on the last day. Additionally, you must retain recordings during any appeal periods from denial of requests.

3. An agency may establish reasonable fees relating to the costs incurred to disclose audio/video recordings. The fees shall be paid by the requesting party at the time of disclosure of the recording. There is no right to production of recordings (e.g. interviews/interrogations) made inside a facility owned or operated by a law enforcement agency or to any communications between or within law enforcement agencies concerning an audio or video recording. An agency may redact recordings in order to protect potential evidence in a criminal matter, information pertaining to an investigation, confidential information or victim information. Audio and video recordings must be redacted when only part of the recording is shielded from disclosure. Recall that in PSP v. Grove, the PA Supreme Court found that partial redaction was required (though this opinion was written based on the “Right to Know Act,” just prior to Act 22’s enactment).

4. Act 22 allows a police department to enter into a Memorandum of Understanding (MOU) with the District Attorney’s Office for the purpose of consultation on the decision of whether or not to release a recording, as well as the District Attorney’s assumption of responsibility for the decision to deny a request and defending that decision. Whether or not an MOU is in place, the Act gives the District Attorney the authority to override a department’s decision to release audio and/or video recordings pertaining to criminal matters.

5. The status of recordings made in a home without a warrant are still somewhat in question in light of Commonwealth v. Dunnavant, 107 A.3d 29 (Pa. 2014), a case which involved a warrantless recording in a home by a confidential informant. While we believe that it is unlikely that Pennsylvania appellate courts will find a constitutional violation when a police officer who is in uniform or otherwise clearly identifiable as a law enforcement officer records in a home, there are no appellate decisions directly deciding this issue. Out of an abundance of caution, an “initial” notification that the officer is recording upon entry into a home may help negate a suppression challenge.

The most difficult issue encountered when drafting this MODEL POLICY was when to allow officers to review MVR recordings of the incident when there is a deadly force or in-custody death/near-death incident. At that instant Officers must rely on their training, experience and available information. One of the considerations in Use of Force evaluations is that the “Force” used must be “objectively reasonable” based on the facts and circumstances confronting the officer(s) and judged from the perspective of a reasonable officer on the scene and not with the 20/20 vision of hindsight. In an attempt to determine the unadulterated thought process and feelings perceived by the officer at the time of the incident, the model policy calls for officers to view MVR recordings related to the incident after being interviewed. We strongly recommend you request an independent agency (e.g. ACPD, PSP) to conduct the interviews and investigation on these types of incidents.

This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.
01. PURPOSE
The purpose of this policy is to provide police officers with general guidelines on the use of the Mobile Video Recorder while on patrol, as an effective tool to help audio/visually document incidents and events as they actually occur. Recent changes to Pennsylvania Law allow uniformed law enforcement officers or clearly identifiable law enforcement officers on official duty such usage. Future changes in law and procedure, technology, as well as training provided on this procedure, may give rise to modifications of this policy. Violations of this policy subjects the officer to the department disciplinary policy.

If Facial Recognition Software or Programs are developed which interface with MVRs, their use will be utilized in accordance with applicable law and approved by the Chief of Police or his designee.

02. POLICY
This department has adopted the use of the Mobile Video Recorder in an effort to increase officer safety, accurately document events, actions and conditions during arrest situations and critical incidents, traffic enforcement, criminal investigation, intelligence gathering, traffic surveys, investigation of suspicious activity, Emergency Pursuit Vehicle Operations, and the prosecution of the Motor Vehicle Code and Crimes Code violations, so as to ensure the accuracy of reports, collection of evidence, and testimony in court and the enhancement of this department’s ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, as well as, for officer evaluation and training.

The Department recognizes that video images cannot always show the full story nor do video images capture an entire scene. The Department also recognizes that the MVR video does not mirror the perspective of the officer at the time of an incident, nor does the video include other factors known to or perceived by the officer that could impact the officer’s judgement and decision-making, such as events beyond the scope of the camera, the officer’s “reactionary gap”, or the difference between human vision and the camera’s video recording abilities. Therefore, the use of Mobile Video Recorders does not reduce the requirement to provide thorough written documentation of an incident.

03. DEFINITIONS
The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**Agency Administrator** – Member of the Department who will be identified at the administrator level, with full access to user rights.

**Mobile Video Recorder (MVR) System** – All cameras, accessories, docking stations, etc. related to MVR systems approved for use by the Pennsylvania State Police and published in the Pennsylvania Bulletin.

**MVR Technician** – Officers of the Department who are specifically trained in the maintenance and care of the MVR equipment, and who are trained to maintain and administer the storage of the recordings.

**Confidential Information** - Any of the following:

1. The identity of a confidential source.
2. The identity of a suspect or witness to whom confidentiality has been assured.
3. Information made confidential by law or court order.

**Information Pertaining to an Investigation** - An audio recording or video recording which contains any of the following:

1. Complaints or depictions of criminal conduct, including all actions or statements made before or after the criminal conduct that are part of or relate to the same incident or occurrence.
2. Upon disclosure, information that would:
   i. reveal the institution, progress or result of a criminal investigation;
   ii. deprive an individual of the right to a fair trial or an impartial adjudication;
   iii. impair the ability of the Attorney General, a district attorney or a law enforcement officer to locate a defendant or codefendant;
   iv. hinder the ability of the Attorney General, a district attorney or a law enforcement officer to secure an arrest, prosecution or conviction; or
   v. endanger the life or physical safety of an individual.
3. Upon disclosure, information that would:
(i) Reveal the institution, progress or result of an agency investigation.
(ii) Deprive a person of the right to an impartial administrative adjudication.
(iii) Constitution an unwarranted invasion of privacy.
(iv) Hinder an agency’s ability to secure an administrative adjudication.
(v) Endanger the life or physical safety of an individual.

**Digital Evidence** – MVR files, including photographs, audio recordings and video footage, captured by a MVR and stored digitally.

**End User** – Officers of the Department who have been issued or assigned a vehicle with a MVR.

**Evidence Transfer Manager (ETM)** - A computer server with built-in, networked or wirelessly connected docking stations physically installed within the Department or a Department vehicle that simultaneously recharges the MVR equipment while digitally encrypting and uploading all data captured to the server.

**Law Enforcement Agency** - The Office of Attorney General, District Attorney’s Office or an agency that employs a law enforcement officer.

**Law Enforcement Officer** - An officer of the United States, the Commonwealth or a political subdivision thereof, another state or political subdivision thereof or who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter or an equivalent crime in another jurisdiction, a sheriff or deputy sheriff and any attorney authorized by law to prosecute or participate in the prosecution of the offense.

**Oral Communication** - Any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation. The term does not include the following:

(1) An electronic communication.
(2) A communication made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who is using an electronic, mechanical or other device which has been approved under section 5706(b)(4) (relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices) to intercept the communication in the course of law enforcement duties.

**Storage Server** – Digital media storage that can be remotely accessed by Authorized End Users and Administrators. This virtual evidence warehouse stores digitally encrypted data in a highly secure environment that is only accessible to approved personnel based upon their security clearance.

**Victim** - An individual who was subjected to an act that was committed by another individual, including a juvenile, which constitutes any of the following:

(1) An offense committed under any of the following:
(i) The act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.
(ii) 18 Pa.C.S. (relating to crimes and offenses).
(iii) 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance).
(iv) 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).
(v) 75 Pa.C.S. § 3732 (relating to homicide by vehicle).
(vi) 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).
(vii) 75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).
(viii) 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).
(ix) 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).
(x) Any other Federal or State law.
(2) An offense similar to an offense listed under paragraph (1) committed outside of this Commonwealth.
(3) An offense which would constitute grounds for the issuance of relief under Chapter 62A (relating to protection of victims of sexual violence or intimidation) or 23 Pa.C.S. Ch. 61 (relating to protection from abuse).
(4) An offense against a resident of this Commonwealth which is an act of international terrorism.

**Victim Information** - Information that would disclose the identity or jeopardize the safety of a victim.
04. **PROCEDURES**

A. **Officers Responsibilities:**

1. Officers must successfully complete department MVR training.

2. At the beginning of each officer's shift, he/she is to ensure that the Mobile Video Recorder is on, in working order and if applicable, a check will be made of the DVD to determine the length of recordable time remaining on it. If there is one hour or less, the officer shall change it with the next sequential disk for that MVR and note on the Daily Log. **In the event that any evidence of a crime or significant event is recorded, the audio and video recording will be processed as evidence according to Department Policy.** Routine traffic stops or routine audio and video recordings where there is no physical arrest are not considered significant events. At the end of the shift, the MVR shall be turned off.

3. Officers will note in the incident, arrest and any related reports when audio and video recordings were made during the incident in question and the property number will be noted in the appropriate report.

4. Officers shall inform the OIC of training of any audio and video recorded sequences that may be of value for training purposes.

5. If DVD format, under **NO** circumstances will any DVD's not issued by this department be used or played in the Mobile Video Recorder as the recorder may be damaged or contaminated.

6. Malfunctions of the Mobile Video Recorder should immediately, or as soon as practical, be brought to the attention of the shift supervisor and shall be recorded on the Daily Log.

7. Officers shall ensure the MVR is positioned and adjusted to record events and the use of the MVR will commence immediately upon activation of the emergency warning lights or from manual activation by the Officer.

8. Officers should utilize the MVR to record activities associated with their job duties and responsibilities whenever possible. The MVR should not be deactivated until the enforcement action or incident is completed. If the MVR is deactivated before the enforcement action or incident is completed the officer will be expected to articulate the reason(s).

9. Although notice is not required by law, in certain circumstances, it may prove beneficial to provide notice of the recording, using a phrase such as, "Our actions and words are being recorded. Such notice may assist an officer to deescalate confrontational situations.

10. Once activated in accordance with this policy, officers shall not deactivate their MVR until:
   a. they have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another member;
   b. their involvement in the citizen contact or detention has concluded;
   c. they receive an order from a supervisor (in these cases, officers shall document the order via a MVR recording prior to deactivation);
   d. the incident requiring activation has concluded, and the officer has returned to service.

11. **Exceptions:**
   a. In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while being recorded, officers will have the discretion to turn off their MVR during the interview. In such situation, the officer must record a brief verbal explanation for the deactivation prior to turning off the recording.
   b. The MVR may be deactivated during conversations among/with officers or supervisors during information sharing sessions or discussing tactics and strategy. The same notification of cessation shall be noted as in above in subsection-a.

12. Officers shall use appropriate discretion when recording confidential informants or undercover officers.

13. When a prisoner(s) is being transported in a Mobile Video Recorder equipped vehicle, the camera should be positioned and adjusted to record the actions of the prisoner(s) in the backseat of the vehicle.

14. The lockable box in which the MVR is located shall be locked at all times.
15. Officers shall not:
   a. Remove, dismantle, or tamper with any hardware or software component or part associated with MVRs.
   b. Attempt to change any functions or controls on the audio and video recording unit for which they have not been trained, including, but not limited to, date, time, taping speed, etc.
   c. Erase, destroy, disseminate, edit, alter, or otherwise use MVR recordings without the written permission of the Chief of Police, except for approved annotation in accordance with the training and capabilities of the MVR system (e.g., flagging a location in the retrieval video for use in court at a later date).
   d. Copy, convert, record, or disclose the contents of a MVR recording including posting to any public and/or social media site without written approval of the Chief of Police. MVR recordings shall only be shared for official law enforcement purposes.
   e. Allow unauthorized personnel to view the MVR recordings without permission from his/her immediate supervisor. Governmental employees who are directly involved in the investigation and/or prosecution of a criminal case related to the digital evidence, or who are previously authorized to interact with Department evidence, are exempt from this restriction.
   f. Delete any MVR recording.
   g. Download or convert any MVR recording for personal use.
   h. Use Department-issued MVRs while off-duty.
   i. Record conversations of officers without their knowledge during routine, non-enforcement related activities such as in Department locker rooms, restrooms or any other place where there would be a reasonable expectation of privacy.
   j. Record gratuitously violent or obscene images, unless necessary for evidentiary documentation or required by this policy.
   k. Record a particular person based solely on the person’s race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, physical disability status, or political affiliation.
   l. Use any other electronic device or other means in order to intentionally interfere with the capability of the MVR.
   m. End a recording based solely on a citizen’s request/demand. Officers may end a recording if the citizen wishes to provide anonymous information; however, officers must balance the value of the proffered information versus the value of the ongoing MVR recording.
   n. View recordings for other than official law enforcement purposes.
   o. Record strip searches.

B. Supervisor Responsibilities
   1. Supervisors shall ensure officers use the MVR equipment.
   2. Supervisors shall review the following recordings:
      a. Recordings of any officer injury.
      b. Recordings of any actor injury.
      c. Recordings of any use of force incident.
      d. Recordings of any vehicle pursuit and actions taken following the pursuit.
      e. Recording of any citizen complaint.
      f. Random recordings as designated by the Chief of Police.
   3. Supervisors will utilize the information from the recordings during the completion of performance evaluations.
   4. Supervisors shall take appropriate administrative action if an officer is found to have failed to properly use or care for the MVR equipment.
   5. In a critical incident (such as an officer involved shooting, in-custody death or other officer involved incident that results in serious injury or death), a supervisor or their designee shall immediately take custody of involved MVRs and, in such case, will assume responsibility for the upload.
   6. In the event a malfunction is brought to the attention of a supervisor, he/she will, as soon as practical, notify the proper company for repairs to be made.
   7. On at least a bimonthly basis, the OIC of Training will randomly review audio and video recordings to assist in periodic assessment of Officer Performance, determine whether the MVR recording equipment is being fully and properly used and to identify material that may be appropriate for training.

05. If Digital Format
   a. The original digital file transferred from the recorded media will be stored on the network server to prevent destruction.
   b. Non-evidentiary audio and video recordings from the MVR will be maintained in accordance with Pennsylvania Law, after their creation. The data files may be archived to a DVD.
   c. Only supervisory personnel or the Chief’s designee shall have access to the network location for the MVR digital files.
   d. Officers requesting a copy of a digital video shall submit a written request to the supervisor or person responsible identified to duplicate the video.
06. OFFICER ACCESS AND REVIEW

A. Officer Access and Review
1. Officers may review MVR recordings prior to documenting an incident, arrest, search, interview, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.

2. Deadly Force or In-Custody Death/Near Death Incident: In an attempt to determine the unadulterated thought process and feelings perceived by the officer at the time of the incident, the officer shall not be provided, nor shall they review MVR recordings prior to giving an initial statement to an investigator. Once the initial statement is provided, the involved officer may view MVR recordings prior to providing any additional statements to investigators.

07. AUDIO AND VIDEO RECORDINGS CONTROL & MANAGEMENT

A. Duplication/Retention of MVR Recordings
1. The recordings produced on the MVR equipment are property of the Department, and will be subject to applicable law and Department policies regarding the viewing, release, retention and destruction of such recordings.
2. Mandatory Retention: The following types of incidents recorded on MVR equipment shall be retained and processed as evidence:
   a. Incidents which may result or have resulted in the filing of criminal charges.
   b. Incidents which are likely to become the subject of civil litigation against the Department or its personnel, including but not limited to, patrol vehicle crashes, pursuits, critical incidents, incidents involving the use of force, and incidents involving verbal complaint(s) against the Department or its personnel.
   c. Incident involving injuries to officers and injuries incurred or alleged to have been incurred by others as the result of police actions.
   d. Recordings which have been properly requested shall be retained pursuant to Title 42, Chapter 67A.
   e. Recording shall be retained for no less than 75 days to accommodate any delays in processing a request.
   f. If a request is denied additional retention time is necessary.
3. Other Requests for Retention:
   a. Any member who believes that the retention of a recording not specifically required by this regulation is advisable (e.g., for use in a summary proceeding involving a traffic violation or training), shall notify the MVR Technician as soon as possible. The MVR Technician shall evaluate each request in accordance with this regulation. Officers are advised, per this regulation, that all recordings collected by the MVR equipment which are not regulated by a regular retention schedule will be purged no later than 120 days from the date of the last recording. All requests for duplication/retention are to be requested on a Department Form, “MVR Video/Audio Recording/Request Form.” The completed form must be sent to the MVR Technician.
   b. When properly requested and approved, the MVR Technician will duplicate the recording of the incident from the Storage Server system and ensure its delivery to the requesting officer in a timely manner. The Department MVR Request Form will specify the reason that the recording is requested (e.g., court), and the date that the recording is needed.
   c. Additional requests for retention of MVR recordings may be made of the evidence custodian:
      1) Recordings requested to be preserved by an officer on the recording, a supervisor, or the Office of the Chief, where the recording may be necessary for use in any criminal or forfeiture proceeding. The recording shall be retained until destruction is authorized by the Office of the Chief.
      2) Recordings requested to be preserved by an officer on the recording or a supervisor, where the recording may be necessary for use in any summary proceeding involving a traffic violation. The retained recording shall be purged no later than 120 days from the conclusion of all proceedings related to the citation.
      3) Recordings requested to be preserved by a supervisor or solicitor where the recording may be necessary for use in any civil, administrative, or disciplinary proceeding. The recording shall be retained until destruction is authorized by the Chief of Police.
      4) Recordings that are the subject of a subpoena or court order shall be retained until destruction is authorized by the Chief of Police.
      5) In criminal cases, notice shall be provided to the prosecuting attorney of any request for MVR recordings.
      6) MVR Evidence Custodians shall ensure that all recordings are purged no later than 120 days from the date of the last recorded incident, after all properly requested and approved duplications have been made, unless otherwise regulated by this policy.
B. MVR Media Categorization, Notation and Use in Reports
1. Each event must be categorized according to event type, to ensure proper retention periods are applied.

2. The use of the MVR shall be recorded in the appropriate section of Department reports, and in the remarks section of citations.

3. Officers may use media captured via the MVR to assist with investigations and the completion of required reports in accordance with this policy. Officers may also use the media captured by the MVR to assist investigators and supervisors in evaluating on-going situations.

4. Using the capabilities of the storage server (if applicable), officers may add markers and/or create clips in order to assist investigators and/or prosecutors.

5. Officers may use media captured on the MVR for training purposes, with proper authorization from the Chief of Police. Additionally, Field Training Officers may use media captured via the MVR to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).

C. Storage and Erasure

1. Storage and Erasure of audio and video recordings will be in accordance with Pennsylvania Law and will be the responsibility of the Supervisor in charge of Property and Evidence.

2. If applicable, the only time a DVD is to be erased and reused is during the normal rotation sequence.

3. MVR audio and video recordings containing information that may be of value for case prosecution or any criminal, civil or administrative proceeding shall be safeguarded as evidence. Any time an officer marks a audio and video recording as evidence, he/she will, as soon as practical, notify the person in charge of Property and Evidence that such recording is to be stored as evidence. These audio and video recordings will be subject to the same security restrictions and chain of evidence safeguards as detailed in this department’s Property & Evidence control procedures.

4. If DVD format, each MVR equipped vehicle will have two DVD's marked with unit number and A or B. As previously indicated, when a DVD indicates one hour or less of available audio and video recording time, it is to be taken out of service and replaced with the next numerically assigned DVD. This procedure shall also be followed when a DVD is taken out of service for evidentiary reasons.

5. Disks not requiring retention as described in this policy shall be saved for 75 days and then placed back in the rotation sequence.

6. When an audio and video recording is taken out of service for evidentiary reason, the following procedure shall be followed:
   b. Chief or designee will download the original video of incident in question, make a copy and store accordingly.
   c. Once a copy is made of the incident, if applicable, the original DVD will be erased and placed back into service.

08. DISSEMINATION

Dissemination of audio and video recordings shall be in accordance with provisions of Pennsylvania Law.
In Partnership With

The Allegheny County District Attorney’s Office

September-2020
Summary of Model Body Worn Camera Policy Development

On July 7, 2017, Act 22 of 2017 was signed into law, amending the Wiretap Act, the Right to Know Law, and the Judicial Code. Act 22 can be found at 18 Pa.C.S. § 67A01 et seq., and its effective date is September 5, 2017. Act 22 requires that law enforcement agencies establish written policies for police audio and/or video recordings which shall be public. The scope of Act 22 includes Body Worn Cameras, Mobile Video Recorders, and other recordings. The highlights of Act 22 are as follows:

1. Act 22 revises the definition of “Oral Communication” in 18 Pa.C.S. §5702 of the Wiretap Act to specifically exclude communications made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who is using an electronic, mechanical, or other device which has been approved as set forth in the Act. Consequently, the following are no longer applicable to police recordings:
   a. The prohibition on recording inside a residence;
   b. The requirement for police to inform of the recording; and
   c. Civil and/or criminal penalties contained within the Wire Tap Act.

2. Requests for police recordings and agency responses will no longer be made pursuant to the Right to Know Law, 65 P.S. §67.101, et seq. Any requests for audio/video recordings made by law enforcement officers will now be governed by Act 22. Requests for police recordings must be made in writing and served upon the department’s Open Records Officer within (60) days of the recording, stating the date, time, location of the incident and the requestor’s relationship to the recording. You should review and revise your audio/video recording retention policies to insure that you have the ability to respond to requests made on the last day. Additionally, you must retain recordings during any appeal periods from denial of requests.

3. An agency may establish reasonable fees relating to the costs incurred to disclose audio/video recordings. The fees shall be paid by the requesting party at the time of disclosure of the recording. There is no right to production of recordings made inside a facility owned or operated by a law enforcement agency or to any communications between or within law enforcement agencies concerning an audio or video recording. An agency may redact recordings in order to protect potential evidence in a criminal matter, information pertaining to an investigation, confidential information or victim information. Audio and video recordings must be redacted when only part of the recording is shielded from disclosure. Recall that in PSP v. Grove, the PA Supreme Court found that partial redaction was required (though this opinion was written based on the “Right to Know Act,” just prior to Act 22’s enactment).

4. Act 22 allows a police department to enter into a Memorandum of Understanding (MOU) with the District Attorney’s Office for the purpose of consultation on the decision of whether or not to release a recording, as well as the District Attorney’s assumption of responsibility for the decision to deny a request and defending that decision. Whether or not an MOU is in place, the Act gives the District Attorney the authority to override a department’s decision to release audio and/or video recordings pertaining to criminal matters.

5. The status of recordings made in a home without a warrant are still somewhat in question in light of Commonwealth v. Dunnavant, 107 A.3d 29 (Pa. 2014), a case which involved a warrantless recording in a home by a confidential informant. While we believe that it is unlikely that Pennsylvania appellate courts will find a constitutional violation when a police officer who is in uniform or otherwise clearly identifiable as a law enforcement officer records in a home, there are no appellate decisions directly deciding this issue. Out of an abundance of caution, an “initial” notification that the officer is recording upon entry into a home may help negate a suppression challenge.

The most difficult issue encountered when drafting this MODEL POLICY was when to allow officers to review BWC recordings of the incident when there is a deadly force or in-custody death/near-death incident. At that instant Officers must rely on their training, experience and available information. One of the considerations in Use of Force evaluations is that the “Force” used must be “objectively reasonable” based on the facts and circumstances confronting the officer(s) and judged from the perspective of a reasonable officer on the scene and not with the 20/20 vision of hindsight. In an attempt to determine the unadulterated thought process and feelings perceived by the officer at the time of the incident, the model policy calls for officers to view BWC recordings related to the incident after being interviewed. We strongly recommend you request an independent agency (e.g. ACPD, PSP) to conduct the interviews and investigation on these types of incidents.

This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.
1. PURPOSE
The purpose of this policy is to provide law enforcement officers with guidelines on the use of Body Worn Cameras (BWC) as an effective tool to help audio/visually document events as they actually occur.

Recent changes to Pennsylvania Law allow uniformed law enforcement officers or clearly identifiable law enforcement officers on official duty such usage. Future changes in law and procedure, technology (e.g., facial recognition), as well as training provided on this procedure, may give rise to modifications of this policy. Violations of this policy subjects the officer to the department disciplinary policy.

2. POLICY
When permissible under Pennsylvania Law, officers shall activate the BWC to record contacts with citizens in the performance of their official duties, pursuant to this policy.

Officers and citizen safety shall be the primary consideration when interacting with citizens and/or suspects. There may be instances in which officers are unable to activate their BWC due to circumstances making it unsafe, impossible, or impractical to do so. In these exigent circumstances, officers shall begin recording with their BWC at the first reasonable opportunity to do so and document the reason for the delayed start in the incident report and/or as part of the recording.

The Department recognizes that video images cannot always show the full story nor do video images capture an entire scene. The Department also recognizes that the BWC video does not mirror the perspective of the officer at the time of an incident, nor does the video include other factors known to or perceived by the officer that could impact the officer’s judgement and decision-making, such as events beyond the scope of the camera, the officer’s “reactionary gap”, or the difference between human vision and the camera’s video recording abilities. Therefore, the use of body-worn cameras does not reduce the requirement to provide thorough written documentation of an incident.

This policy does not regulate the use and operation of Mobile Video Recording (MVR) equipment that is permanently mounted inside of some Department owned vehicles (Refer to Department MVR policy).

3. DEFINITIONS
The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**Audit Reviews** - A program audit review is designed and intended to formally examine and evaluate internal policies, procedures, and operations related to the BWC program. An audit is seen as a proactive approach, to identify any gaps, and correct them within the program, thus establishing good practices to sustain.

**Agency Administrator** – Member of the Department who will be identified at the administrator level, with full access to user rights.

**Body Worn Camera (BWC) System** – A camera system worn on the person of a uniformed law enforcement officer, or clearly identifiable law enforcement officer on official duty, capable of recording events both audio and visually that is approved for use by the Pennsylvania State Police and published in the Pennsylvania Bulletin.

**BWC Technician** – Officers of the Department who are specifically trained in the maintenance and care of the BWC equipment, and who are trained to maintain and administer the storage of the recordings.

**Confidential Information** – Any of the following:

(1) The identity of a confidential source.
(2) The identity of a suspect or witness to whom confidentiality has been assured.
(3) Information made confidential by law or court order.

**Information Pertaining to an Investigation** – An audio recording or video recording which contains any of the following:

(1) Complaints or depictions of criminal conduct, including all actions or statements made before or after the criminal conduct that are part of or relate to the same incident or occurrence.
(2) Upon disclosure, information that would:
   (i) reveal the institution, progress or result of a criminal investigation;
   (ii) deprive an individual of the right to a fair trial or an impartial adjudication;
   (iii) impair the ability of the Attorney General, a district attorney or a law enforcement officer to locate a defendant or codefendant;
(iv) hinder the ability of the Attorney General, a district attorney or a law enforcement officer to secure an arrest, prosecution or conviction; or
(v) endanger the life or physical safety of an individual.

**Digital Evidence** – BWC files, including photographs, audio recordings and video footage, captured by a BWC and stored digitally.

**End User** – Officers of the Department who have been issued or assigned a BWC.

**Evidence Transfer Manager (ETM)** – A computer server with built-in, networked or wirelessly connected docking stations physically installed within the Department or a Department vehicle that simultaneously recharges the BWC equipment while digitally encrypting and uploading all data captured to the server.

**Law Enforcement Agency** – The Office of Attorney General, District Attorney's Office or an agency that employs a law enforcement officer.

**Law Enforcement Officer** – An officer of the United States, the Commonwealth or a political subdivision thereof, another state or political subdivision thereof or who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in the Pennsylvania Consolidated Statutes or an equivalent crime in another jurisdiction, a sheriff or deputy sheriff and any attorney authorized by law to prosecute or participate in the prosecution of the offense.

**Oral Communication** – Any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation. The term does not include the following:

1. An electronic communication.
2. A communication made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who is using an electronic, mechanical or other device which has been approved under section 5706(b)(4) (relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices) to intercept the communication in the course of law enforcement duties.

**Storage Server** – Digital media storage that can be accessed by End Users and Administrators. This virtual evidence warehouse stores digitally encrypted data in a highly secure environment that is only accessible to approved personnel based upon their security clearance.

**Victim** – An individual who was subjected to an act that was committed by another individual, including a juvenile, which constitutes any of the following:

1. An offense committed under any of the following:
    (i) The act of April 14, 1972 (P.L.233, No. 64), known as The Controlled Substance, Drug, Device & Cosmetic Act.
    (ii) 18 Pa.C.S. (relating to crimes and offenses).
    (iii) 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance).
    (iv) 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).
    (v) 75 Pa.C.S. § 3732 (relating to homicide by vehicle).
    (vi) 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).
    (vii) 75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).
    (viii) 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).
    (ix) 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).
    (x) Any other Federal or State law.

2. An offense similar to an offense listed under paragraph (1) committed outside of this Commonwealth.
3. An offense which would constitute grounds for the issuance of relief under Chapter 62A (relating to protection of victims of sexual violence or intimidation) or 23 Pa.C.S. Ch. 61 (relating to protection from abuse).
4. An offense against a resident of this Commonwealth which is an act of international terrorism.

**Victim Information** - Information that would disclose the identity or jeopardize the safety of a victim.

4. **PROCEDURES**

   **A. Officer Responsibilities**

   1. Officers must successfully complete department BWC training.
   2. Officers shall only use BWC equipment in the performance of their official duties.
   3. Officers shall only use Department issued BWC equipment.
   4. During BWC use, officers shall ensure that they are on official duty, in uniform or clearly identifiable as a law enforcement officer. This requirement is satisfied if the officer is in uniform and operating a properly equipped police
vehicle, or is otherwise clearly identifiable as a Law Enforcement Officer.
5. Officers shall wear body-worn cameras in a manner consistent with department training.
6. The BWC shall be worn for the entire shift and maintained in a constant state of operational readiness.

7. When the BWC has been activated to record an incident, it shall not be deactivated until the incident has been completed, unless otherwise authorized per policy.
8. Although notice is not required by law, in certain circumstances it may prove beneficial to provide notice of the recording, using a phrase such as, “Our actions and words are being recorded,” or “Our interaction is being recorded on my Body Camera”. Such notice may assist an officer to deescalate confrontational situations.
9. When safe and practical to do so, officers may narrate the video recording contemporaneously (i.e., at the same time) with a recorded incident, to assist with accurate documentation of events.
10. Officers will note in the incident, arrest, and any related reports if BWC recordings were made during the incident in question.

B. Supervisor Responsibilities
1. Supervisors shall ensure officers use the body worn camera equipment.
2. Supervisors shall review the following recordings:
   a. Recordings of any officer injury.
   b. Recordings of any actor injury.
   c. Recordings of any use of force incident.
   d. Recordings of any vehicle pursuit and actions taken following the pursuit.
   e. Recording of any citizen complaint.
   f. Random recordings as designated by the Chief of Police.
3. Supervisors will utilize the information from the recordings during the completion of performance evaluations.
4. Supervisors shall take appropriate administrative action if an officer is found to have failed to properly use or care for the body worn camera equipment.
5. In a critical incident (such as an officer involved shooting, in-custody death or other officer involved incident that results in serious injury or death), a supervisor or their designee shall immediately take custody of involved BWC(s) and, in such case, will assume responsibility for the upload.

C. Use and Maintenance
1. BWC-equipped Officers
   a. Are responsible for the proper use and care of their assigned BWC at all times and are reminded that BWC recordings do not replace written reports.
2. Prior to deployment, officers shall:
   a. Inspect and test their BWCs to ensure that they are operational and functioning properly. If a BWC is damaged or inoperable, officers shall immediately notify a supervisor who will immediately test the camera and, if inoperable, place the camera out of service and notify the Chief or his/her designee.
   b. Make every effort to ensure that they begin their shift with a fully charged BWC that does not contain data from a prior shift.
3. Lost or damaged BWC:
   a. Officers who discover at any time during their shift that their BWC is lost, shall immediately notify a supervisor.
   b. Officers who discover at any time during their shift that their BWC is damaged, malfunctioning, or that it contains data from a previous shift shall immediately notify a supervisor who will immediately test the camera and, if inoperable, place the camera out of service and notify the Chief or his/her designee.
4. Officers, including primary, secondary and assisting officers, shall start their BWC recordings as soon as a call is initiated via radio or communication from 911 on their mobile data computer (MDC), or at the beginning of any self-initiated police action.
5. In addition, when reasonable and safe to do so, officers operating the BWC equipment will ensure all dispatched and self-initiated calls-for-service are recorded including but not limited to the following:
   a. all enforcement/investigation related citizen contacts (e.g. domestics, assaults, disturbances);
   b. all stops (e.g., traffic and pedestrian), frisks and searches;
   c. vehicle and foot pursuits;
   d. all traffic crash scenes;
   e. DUI investigations, to include Field Sobriety Testing;
   f. high-risk encounters (e.g., barricade situations, active shooter);
   g. mental health encounters;
   h. suspicious activities;
   i. use of force situations;
   j. investigative detentions or arrests;
   k. encounters that require the advising of Miranda rights;
l. all transports of prisoners and citizens (unless in a MVR equipped car);
m. any contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording;

n. any of the following searches of a person or property:
   1) consent searches (record consent);
   2) warrantless searches;
   3) vehicle searches;
   4) searches conducted incident to arrest;
   5) inventory searches;
   6) cursory searches;
   7) probable cause searches;
   8) execution of search or arrest warrants;
   9) frisks;
   10) field searches;
   11) full-custody searches;
   12) during initial inventoring of seized money/high value property;
   13) deployment of drug detection dogs;
   14) any incident when the member deems it appropriate to activate the BWC in accordance with this policy or upon direction from a supervisor.

6. Officers who are on the scene of an incident and are not the primary reporting officer shall inform the reporting officer of their BWC recording(s) so that the primary officer may include this information in his or her report.

7. BWCs may also be used to record initial interviews of victims, complainants and witnesses.

8. Once activated in accordance with this policy, officers shall not deactivate their BWC until:
   a. they have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another member;
   b. their involvement in the citizen contact or detention has concluded;
   c. they receive an order from a supervisor (in these cases, officers shall document the order via a BWC recording prior to deactivation);
   d. the incident requiring activation has concluded, and the officer has returned to service.

9. Exceptions:
   a. In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while being recorded, officers will have the discretion to turn off their BWC during the interview. In such situation, the officer must record a brief verbal explanation for the deactivation prior to turning off the recording.
   b. The BWC may be deactivated during conversations among/with officers or supervisors during information sharing sessions or discussing tactics and strategy. The same notification of cessation shall be noted as in #8.
   c. Officers shall use appropriate discretion when recording confidential informants or undercover officers.

10. When officers activate their BWCs and such activation was not required by policy, and the circumstances no longer need to be recorded, they may deactivate their BWC.

11. After officers deactivate their BWCs, it is their responsibility to ensure they reactivate their BWC should circumstances require.

12. Any delay or failure to activate their BWC required by this policy, as well as any interruption of a BWC recording required by this policy, shall be documented in the narrative section of any related report and shall be reported to a supervisor.

13. At the completion of their shift, officers shall:
   a. inspect his/her BWC and ensure that it is operational and functioning properly, and that the battery is recharged. If the camera is damaged or inoperable, officers shall immediately notify a supervisor who will immediately test the camera and, if inoperable, shall place the camera out of service and notify the Chief of Police or his/her designee.
   b. BWC recordings shall only be stored on a Department approved server or on a Department approved storage device. Officers shall ensure all BWC data is uploaded at the end of their shift, and when necessary, during their shift, to ensure storage capacity is not exceeded.
   c. Charge the camera in an approved BWC charging device.
   d. Officers will ensure BWC devices are securely stored in authorized locations when devices are not in use.

14. Officers shall not:
   a. Remove, dismantle, or tamper with any hardware or software component or part associated with BWCs.
   b. Erase, destroy, disseminate, edit, alter, or otherwise use BWC recordings without the written permission of the Chief of Police, except for approved annotation in accordance with the training and capabilities of the BWC system (e.g., flagging a location in the retrieval video for use in court at a later date).
c. Copy, convert, record, or disclose the contents of a BWC recording including posting to any public and/or social media site without written approval of the Chief of Police. BWC recordings shall only be shared for official law enforcement purposes.

d. Allow unauthorized personnel to view the BWC recordings without permission from his/her immediate supervisor. Governmental employees who are directly involved in the investigation and/or prosecution of a criminal case related to the digital evidence, or who are previously authorized to interact with Department evidence, are exempt from this restriction.

e. Delete any BWC recording except as specified in Section D, Accidental Recordings.

f. Download or convert any BWC recording for personal use.

g. Use Department-issued BWCs while off-duty.

h. Record images or conversations of officers without their knowledge during routine, non-enforcement related activities such as in Department locker rooms, restrooms or any other place where there would be a reasonable expectation of privacy.

i. Record gratuitously violent or obscene images, unless necessary for evidentiary documentation or required by this policy.

j. Record a particular person based solely on the person’s race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, physical disability status, or political affiliation.

k. Record strip searches

l. Use any other electronic device or other means in order to intentionally interfere with the capability of the BWC.

m. End a recording based solely on a citizen’s request/demand.

n. View recordings for other than official law enforcement purposes.

15. Facial Recognition Software or Programs
If Facial Recognition Software or Programs are developed which interface with BWCs, their use will be utilized in accordance with applicable law and approved by the Chief of Police or his designee.

D. Officer Access and Review
1. Officers may review BWC recordings prior to documenting an incident, arrest, search, interview, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.

2. Deadly Force or In-Custody Death/Near Death Incident: In an attempt to determine the unadulterated thought process and feelings perceived by the officer at the time of the incident, the officer shall not be provided, nor shall they review BWC recordings of the incident prior to giving an initial statement to an investigator. Once the initial statement is provided, the involved officer may view BWC recordings of the incident prior to providing any additional statements to investigators.

E. BWC Technician Responsibilities
1. BWC Technicians shall be responsible for the retention, duplication and purging of BWC recordings. BWC Technicians shall also ensure recordings of incidents are maintained in accordance with this policy and department evidence retention procedures.

2. BWC Technicians shall ensure that the recordings are identified and retained in accordance with this policy. Electronically retained recordings shall be retained until the case is adjudicated or there is a court order, unless otherwise indicated.

F. Duplication/Retention of BWC Recordings
1. The recordings produced on the BWC equipment are property of the Department, and will be subject to applicable law and Department policies regarding the viewing, release, retention and destruction of such recordings.

2. Mandatory Retention: The following types of incidents recorded on BWC equipment shall be retained and processed as evidence:
   a. Incidents which may result or have resulted in the filing of criminal charges.
   b. Incidents which are likely to become the subject of civil litigation against the Department or its personnel, including but not limited to, patrol vehicle crashes, pursuits, critical incidents, incidents involving the use of force, and incidents involving verbal complaint(s) against the Department or its personnel.
   c. Incident involving injuries to officers and injuries incurred or alleged to have been incurred as the result of police actions.
   d. Recordings which have been properly requested shall be retained pursuant to the Act.
   e. Recording shall be retained for no less than 75 days to accommodate any delays in processing a request.
   f. If a request is denied additional retention time is necessary.

3. Other Requests for Retention:
   a. Any member who believes that the retention of a recording not specifically required by this regulation is advisable
(e.g., for use in a summary proceeding involving a traffic violation or training), shall notify the BWC Technician as soon as possible. The BWC Technician shall evaluate each request in accordance with this regulation. Officers are advised, per this regulation, that all recordings collected by the BWC equipment which are not regulated by a regular retention schedule will be purged no later than 120 days from the date of the last recording. All requests for duplication/retention are to be requested on a Department Form, “BWC Video/Audio Recording /Request Form.”

The completed form must be sent to the BWC Technician.

b. When properly requested and approved, the BWC Technician will duplicate the recording of the incident from the Storage Server system and ensure its delivery to the requesting officer in a timely manner. The Department BWC Request Form will specify the reason that the recording is requested (e.g., court), and the date that the recording is needed.

c. Additional requests for retention of BWC recordings may be made of the evidence custodian:

   1) Recordings requested to be preserved by an officer on the recording, a supervisor, or the Office of the Chief, where the recording may be necessary for use in any criminal or forfeiture proceeding. The recording shall be retained until destruction is authorized by the Office of the Chief.

   2) Recordings requested to be preserved by an officer on the recording or a supervisor, where the recording may be necessary for use in any summary proceeding involving a traffic violation. The retained recording shall be purged no later than 120 days from the conclusion of all proceedings related to the citation.

   3) Recordings requested to be preserved by a supervisor or solicitor where the recording may be necessary for use in any civil, administrative, or disciplinary proceeding. The recording shall be retained until destruction is authorized by the Chief of Police.

   4) Recordings that are the subject of a subpoena or court order shall be retained until destruction is authorized by the Chief of Police.

   5) In criminal cases, notice shall be provided to the prosecuting attorney of any request for BWC recordings.

   6) BWC Evidence Custodians shall ensure that all recordings are purged no later than 120 days from the date of the last recorded incident, after all properly requested and approved duplications have been made, unless otherwise regulated by this policy.

G. BWC Media Categorization, Notation and Use in Reports

1. Each event must be categorized according to event type, to ensure proper retention periods are applied.

2. The use of the BWC shall be recorded in the appropriate section of Department reports, and in the remarks section of citations.

3. Officers may use media captured via the BWC to assist with investigations and the completion of required reports. Officers may also use the media captured by the BWC to assist investigators and supervisors in evaluating on-going situations.

4. Using the capabilities of the storage server, officers may add markers and/or create clips in order to assist investigators and/or prosecutors.

5. Officers may use media captured on the BWC for training purposes, with proper authorization from the Chief of Police. Additionally, Field Training Officers may use media captured via the BWC to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).

H. Storage and Erasure

1. Storage and Erasure of audio and video recordings will be in accordance with Pennsylvania law and will be the responsibility of the Supervisor in charge of Property and Evidence.

I. Audit Reviews

1. The Lieutenant in charge of the BWC program shall:

   (a) Periodically review the procedures to ensure compliance.
   (b) Ensure periodic compliance reviews are being conducted by shift supervisors.
   ◊ Evaluate that officers are receiving adequate training, and that cameras and data are being maintained properly.
   (d) At a minimum conduct an annual audit review with a follow-up report on any actions taken from the audit.
   (e) The audit-review team shall consist of the Lieutenant in charge of the BWC program, shift supervisor and an officer.
   (f) All review of BWC footage during the audit process shall be documented via the department BWC log and kept on file with the Chief of Police.

J. Dissemination

Dissemination of audio and video recordings shall be in accordance with Pennsylvania Law.
SEARCH & SEIZURE PROCEDURES
An Allegheny County Criminal Justice Advisory Board Project

In Partnership With
The Allegheny County District Attorney’s Office

2021-May
REVISED MODEL
SEARCH & SEIZURE POLICY

01. PURPOSE

The purpose of this policy is to provide Police Officers with guidelines on Search & Seizure and possible related activity. Changes in law and procedure, as well as training provided on this procedure, will give rise to modifications and updates.

02. SEARCH BY CONSENT

Police Officers shall consider the following procedures when initiating searches by consent:

A. Voluntariness of consent

1). Consent to search must be voluntarily given and not the result of duress or coercion, express or implied. Voluntariness is a question of fact to be determined from all the circumstances. Police Officers shall ensure that consent searches are, in fact, voluntary and that consent has been freely given prior to initiating any such search.

B. Authority to consent

1). In order for a consent to be valid, it must be given by one possessing control or apparent authority over the area searched.

2). Any Police Officer initiating a consent search shall ensure the subject giving consent has ownership or other authority to consent to the area or item to be searched, i.e., person in charge may not consent to the search of another person’s item(s) if that person is present.

C. Prerequisite for Consent Searches

1) The voluntary nature of an individual’s consent is always judged on the totality of the circumstances, which includes the custodial status of the individual at the time the request is made. Courts will consider certain factors including but not limited to: the manner in which a Police Officer approaches and asks for consent; how many Police Officers are present; did the Police Officers surround the person; were weapons drawn; what was the Police Officer’s tone of voice; were there other civilians in the area; did the Police Officers inform the individual that she/he didn’t have to consent to search; what is the individual’s level of education?
D. Scope

1) A person has a right to limit the scope of a consent search.

2) Police Officers conducting consent searches shall ensure that the subject granting consent has extended that consent specifically, voluntarily, and unequivocally to the area(s) and/or item(s) searched (Signed Voluntary Consent To Search Form Preferred, Attachment #1).

03. STOP AND FRISK

Police Officers shall consider the following procedures when initiating a stop and frisk:

A. Investigative Stop

1) Investigative stops by Police Officers shall be supported by reasonable suspicion of criminal activity, which shall subsequently be articulated in a report of the incident documenting the stop.

2) A Police Officer who lacks probable cause, but whose observations lead him/her to reasonably suspect that a particular person has committed, is committing, or is about to commit a crime, may detain that person briefly in order to investigate the circumstances that provoked suspicion.

   (a). The reasonable suspicion for the stop shall be based on the Police Officer’s personal observation and/or information supplied by another reliable person.

3). Length of Stop

   (a). Police Officers will diligently pursue a means of investigation that is likely to confirm or dispel his suspicions in a timely manner when detaining a suspect.

B. “Terry Stop”

1). Police Officers may conduct a limited frisk/pat down for weapons if they observe unusual and suspicious conduct on the part of an individual that leads them to believe that:

   (a). There is criminal activity afoot AND;

   (b). That the person may be armed and dangerous.
2). Handcuffs

(a). Officer safety should always come first and the use of handcuffs during a Terry stop and frisk, when an Police Officer fears for his/her safety, WILL NOT automatically turn the stop into an arrest. But Police Officers should be prepared to articulate their safety concerns.

(b). Police Officers shall advise any person handcuffed for a “Terry” search that they are being handcuffed for Officer Safety, that they are not under arrest, and that the handcuffs will be removed when Officer Safety is ensured.

3). Vehicle Extension

(a). “Terry” searches can extend to the passenger compartment of a vehicle when a driver/passenger (by his/her actions such as furtive movements) has given a Police Officer reason to believe that a weapon is located in the vehicle. [A]nd Police Officers may frisk/pat down the driver/passenger(s), if the Police Officer reasonably believes that a suspect, lawfully stopped, is armed and dangerous.

C. “Plain Feel” Doctrine

1). Police Officers conducting cursory frisks may seize an object when it becomes immediately apparent, with knowledge gained from the Police Officer’s sense of touch, that probable cause exists to believe the object is contraband.

04. SEARCH OF VEHICLE

In Pennsylvania, the default position is that a warrant must be obtained for all searches. Pennsylvania has a limited automobile exception under Article I, Section 8 of our Constitution, pursuant to which warrantless vehicle searches require BOTH Probable Cause and Exigent Circumstances; “one without the other is insufficient.”

Police Officers shall consider the following procedures when initiating a search of a vehicle, including containers within a vehicle:

A. Pennsylvania Supreme Court recognizes a limited automobile exception to the warrant requirement which allows police officers to search a motor vehicle only when there are both Probable Cause and Exigent Circumstances to justify the warrantless search.

B. When ample advance information is available that a search of a vehicle is likely to occur in conjunction with the apprehension of a suspect, whenever possible Police Officers shall secure a warrant before searching the vehicle.

C. In a search incident to an arrest, there is no exigency once the suspect is in custody and cannot drive the vehicle away.
D. If probable cause exists to search a vehicle but there are no exigent circumstances, a warrant must be obtained to conduct a search.

E. Vehicles, lawfully stopped on a highway, may also be searched under Pennsylvania law by:

1). Consent

   a). A Police Officer must conclude a lawful motor vehicle stop before a consent to search can be sought. The termination of a motor vehicle stop is determined under the totality of circumstances which includes but is not limited to: whether relevant documents are returned to a driver or whether a driver is informed that he/she is free to leave. Failure to transform the motor vehicle stop into a mere encounter absent reasonable suspicion that other criminal activity is afoot will lead to an invalid consent. However, if a Police Officer develops articulable reasonable suspicion that criminal activity is afoot above and beyond a traffic violation, then consent to search can be sought regardless as to whether the motor vehicle stop has concluded.

2). Plain view

   (a). A Police Officer, who is in a lawful position to observe and possesses a right to access may seize items in plain view which are obviously contraband. Seizure of plain view contraband may not in itself allow a search of other areas of the car.

3). “Terry” Stop

   (a). When a Police Officer can articulate facts which lead to a reasonable belief that an occupant may be armed and dangerous, the Police Officer may conduct a frisk/pat down of the individual. If the Police Officer has reason to believe that a weapon is in the vehicle and may be used to harm the Police Officer, a brief look into the specific area is permitted but the Police Officer must be able to articulate his/her concerns. The brief cursory search should not extend to other areas of the passenger compartment.

   **REMEMBER THAT OFFICER SAFETY SHOULD ALWAYS COME FIRST.**

05. SEARCH AT THE SCENE OF A CRIME

Police Officers shall consider the following procedures when initiating a search at the scene of a crime.

A. Police Officers may conduct a warrantless entry of residences under the following conditions:

1). Consent by tenant or owner.

2). Exigent Circumstances

   (a). Before a Police Officer enters a residence without a warrant or consent he/she must establish that
(1) A belief that someone’s life or personal safety is in immediate danger.

OR

(2) The Police Officer is in “Hot Pursuit” of an armed and dangerous individual.

06. MOTOR VEHICLE INVENTORY

A WARRANTLESS INVENTORY SEARCH OF A VEHICLE IS PERMISSIBLE ONLY WHEN THE POLICE HAVE LAWFULLY TOWED AND STORED, OR IMPOUNDED THE VEHICLE.

COURTS WILL NORMALLY REQUIRE DEPARTMENTS TO HAVE A WRITTEN POLICY ON TOWING AND INVENTORY SEARCHES BEFORE THEY WILL ALLOW ADMISSION OF EVIDENCE DISCOVERED DURING AN INVENTORY SEARCH.

IT IS IMPORTANT TO NOTE THAT THE VEHICLE INVENTORY POLICY SHALL NOT BE UTILIZED IN LIEU OF A WARRANT SEARCH OR A SEARCH WARRANT. THE PURPOSE OF THIS POLICY IS TO PROTECT VALUABLES AND PROPERTY BELONGING TO INDIVIDUALS WHOSE VEHICLES ARE TOWED, IMPOUNDED OR SEIZED.

A. It shall be the policy of the Department that all vehicles towed, impounded or seized are thoroughly Inventory Searched for valuables.

B. The inventory should be conducted at the location, from where the vehicle is towed, impounded or seized unless limited by safety concerns or practicality. If the vehicle is not inventoried at the scene because of safety concerns, it must be inventoried upon arrival at a safe and secure location.

C. A motor vehicle inventory shall extend to all areas of the vehicle in which personal property or hazardous materials may reasonably be found, including but not limited to the passenger and engine compartment(s), trunk and glove box or other areas attached to the vehicle.

D. All closed containers found in the vehicle shall be opened and inventoried unless the contents can be determined from an examination of the exterior of the container.

E. Closed and locked containers shall not be forced open but should be logged on a Report as such. If a key or lock combination is available, locked containers may be opened and inventoried.

F. When possible, the owner or operator shall be asked to take possession of all valuables discovered during the inventory of the vehicle prior to impoundment. Such possession shall be noted on an Inventory Section of the Report. If the owner or operator cannot take possession of the valuables discovered during the inventory, then they will be inventoried and secured within the vehicle prior to towing. The owner or operator shall be requested, when possible, to verify the completeness of the inventory by signature.

G. All property found inside the vehicle will be recorded on an Inventory Section of the Report. Contraband and evidence discovered during the course of a Motor Vehicle Inventory Search shall be seized and logged in as “Evidence.”
H. Any damage or peculiarities pertaining to the vehicle shall also be documented.

I. All vehicles impounded shall be towed to a secure facility by an insured and bonded towing service.

07. SEARCH WARRANTS:

Pennsylvania has a knock and announce requirement when executing a Search Warrant.

The purpose of the Rule is to prevent violence and physical injury to the police and occupants; to protect an occupant’s privacy expectation against the unauthorized entry of unknown persons; and to prevent property damage resulting from forced entry.

Requirements of Rule of Criminal Procedure 207 “Manner of Entry Into Premises”:

(1) A law enforcement officer executing a search warrant shall, before entry, give, or make reasonable effort to give, notice of the officer’s identity, authority, and purpose to any occupant of the premises specified in the warrant, unless *exigent circumstances require the officer's immediate forcible entry.

(2) Such officer shall await a response for a **reasonable period of time after this announcement of identity, authority, and purpose, unless exigent circumstances require the officer's immediate forcible entry.

(3) If the officer is not admitted after such reasonable period, the officer may forcibly enter the premises and may use as much physical force to effect entry therein as is necessary to execute the search. 234 Pa. Code § 207

* The Pennsylvania Supreme Court has recognized four exceptions to the requirements of the rule:
   1. the occupants remain silent after repeated knocking and announcing;
   2. the police are virtually certain that the occupants of the premises already know their purpose;
   3. the police have reason to believe that an announcement prior to entry would imperil their safety; and
   4. the police have reason to believe that evidence is about to be destroyed.

** A “reasonable period of time” depends upon the circumstances, but must be sufficient to allow the occupants the opportunity to respond to the knock. Courts have held that 30-40 seconds is not long enough under certain circumstances. There must be sufficient time and circumstances to create a reasonable belief that the occupants of the premises do not intend to voluntarily or peaceably surrender the premises

A. Police Officers shall adhere to all Commonwealth of Pennsylvania and Federal statutory and case law concerning searches and seizures.

B. Police Officers should contact an appropriate Deputy or Assistant District Attorney to provide an opinion in any and all cases which may be questionable.
08. **SEARCH AND SEIZURE (in-custody)**

Police Officers should consider the following procedures when searching a person in custody and seizing property:

A. **Search**

1). All subjects taken into custody shall be searched by a Police Officer. When possible, a search will be conducted on scene. In the case where a subject who was not searched is turned over to another Police Officer, that Police Officer shall be informed that the subject was not searched. If circumstances on scene do not allow for a search to be conducted, one will be completed as soon as reasonable. If the subject is returned to a police station or holding facility a search will be conducted in the station prior to the start of processing, regardless of whether the subject has already been searched.

2). All efforts shall be made for a same gender search to subject in custody. When reasonable, Officers from another department may be requested. Officer safety is always the primary consideration. If a same gender search is not possible, the search should be conducted in front of another Police Officer/witness. When possible, the back of the hand should be used during the search, if it does not interfere with Officer safety.

B. **Seizure**

1). All property taken from a person in custody and subject to detainment shall be seized. The Police Officer shall inventory the property on a “Property Report” form. The form shall identify the property taken and the Police Officer connected with the arrest/search. The form will be kept with the property until returned. After the property is returned, the form will be signed by the Police Officer releasing the property and the detainee or a representative of another agency if the detainee is being turned over. It will be placed in the case folder, or if no folder, attached and filed with Departmental records.

2). All contraband/evidence located on a subject searched shall be seized. The contraband/evidence shall be properly tagged and an evidence inventory form completed. The evidence shall then be safely secured for storage and/or testing.

09. **SEARCH OF FEMALES**

All Police Officers are authorized to conduct on-scene searches of female prisoners. **When possible, the back of the hand should be used during the search, if it does not interfere with Officer safety.** Once at a station or holding facility, female prisoners shall be searched by a female Police Officer or matron only.
10. **STRIP SEARCHES AND BODY CAVITY SEARCHES**

Strip searches and/or body cavity searches shall only be conducted on persons who are in custody. A lawful arrest standing alone does not entitle a Police Officer to conduct a strip search and/or body cavity search. A constitutionally valid warrantless strip search requires a Police Officer to possess reasonable suspicion to believe that a person who is in custody following a lawful arrest has a controlled substance, weapon or other contraband hidden on or within his person.

**I. Strip Search:** This is a procedure wherein an arrested person is required to remove all clothing. The arrestee is then searched by visual observation of the body, along with a complete search of the clothing.

**A. Rules for Strip Searches**

1). Police Officers or other police personnel of the same sex shall do a strip search. The search should be witnessed. Police Officer(s) or personnel of the opposite sex shall not be allowed in the room or cell where the search is being conducted.

2). Strip searches shall only be done in areas that provide privacy from outside observation.

3). Searching Police Officers or personnel shall ask the arrestee if there are any medical conditions or other factors which may affect the search, and if any, the search must not interfere with any such condition.

4). Police Officers shall consider the balance between Police Officer safety, safety of the arrestee, and appropriate regard to the dignity of the suspect.

**II. Body Cavity Search:** A body cavity search is a procedure whereby an arrested person’s body openings (anus, vagina, etc) are actually examined to look for contraband, weapons, drugs, evidence, etc. A constitutionally valid warrantless body cavity search requires a Police Officer to possess probable cause to believe that a person who is in custody following a lawful arrest has a controlled substance, weapon or other contraband hidden on or within his person.

**A. Rules for Body Cavity Searches:**

1). A body cavity search which involves manual probing of body cavities should be done by qualified medical personnel in a hygienic setting, except in the most urgent circumstances which include life and death.

2). Police Officers shall consider the balance between Police Officer safety, safety of the arrestee, and appropriate regard to the dignity of the suspect.

3). A Supervisor shall first approve a body cavity search.

**III. Search Warrant Requirement**

A. A search warrant is required for a strip search or body cavity search if the suspect is not under arrest.
B. If the subject is under arrest, strip searches and body cavity searches shall never be done randomly or at the whim of the Police Officer or his/her immediate supervisor. The mere fact of an arrest does not allow a strip search or body cavity search, there must be additional factors. Consider the following:

(1). The nature and seriousness of the offense.
(2). The past criminal record of the arrestee, along with any open warrants and charges.
(3). Whether or not there is reasonable suspicion to believe that the person arrested is carrying or may have any contraband, weapons, evidence, drugs, etc.
(4). The amount of time the arrestee will be in custody prior to arraignment, release, or transport to another agency.
(5). Whether or not the arrestee will be held with another or alone.
(6). Whether the arrestee physically resisted arrest or otherwise used violence or force toward the arresting Police Officer(s) or others.
(7). Whether or not the arrestee has any history of violence, hiding of contraband, drug use, etc.

IV. A strip search may be conducted after considering all of the below circumstances:

A. When a Police Officer has reasonable suspicion based on facts, circumstances and the Police Officer’s experience, that the arrestee has contraband, weapons, drugs or some other prohibited substance or property or evidence of a crime.

B. When the person was arrested for a crime that involved weapons, violence or force, or where the offense involves contraband.

C. When the arrestee has a criminal record for arrests for felonies and misdemeanors involving weapons or contraband.

D. When the arrestee is going to be held in police custody for an extended period of time after the arrest.

E. When the Police Officers have a reason to believe that the arrestee is a danger to him/herself or others.

F. When there is a valid search warrant.

V. Body cavity searches are controversial, even when legally permissible. These searches shall only be conducted when legally necessary and reasonable.
VI. Documentation Required

A. Whenever a suspect is subject to a strip search or body cavity search, the same shall be documented in the incident report.

B. The Police Officer shall document all reasons and suspicion for the search.

C. The Police Officer shall document the starting and ending time of the search, along with the location of the search.

D. The Police Officer shall document other Police Officers and police personnel that were present during the search.

E. The Police Officer shall document any evidence, contraband, drugs, etc, found during the search and the location where it was found.

11. PRISONER SEARCH

A. Before placing a prisoner in a police vehicle for transportation, the transporting Police Officer will search the prisoner, making sure no weapons or contraband have been overlooked.

B. Never assume that a search has been made by another Police Officer or Officer.

C. A search will be made of a prisoner each time he/she comes into the custody of the transporting Police Officer, including transports to and from arraignments and court appearances.

12. RECEIPT

A. When property is seized, the officer(s) shall provide a departmental receipt (appendix D) to the person in possession of the property or, in the absence of a person, if reasonably possible, leave a receipt in the place where the property was seized. This does not apply if you are otherwise required (Search Warrant) to provide a receipt for the property.
POLICE DEPARTMENT
VOLUNTARY CONSENT TO SEARCH

I, _____________________________________________, having been informed of my constitutional rights not to have a search made of myself, the premises or motor vehicle mentioned below without a search warrant and, my right to refuse to consent to such search, and that I may revoke my consent to search at any time, hereby authorize Police to conduct a complete search of my person, premises or motor vehicle described as____________________________________________________________________
________________________________________________________________________
________________________________________________________________________

These Police Officers are authorized by me to take any letters, papers, materials or other property, which is contraband, or may be used as evidence in criminal proceedings.

I am not unduly under the influence of drugs and/or alcohol.
I am giving this written permission voluntarily and without threats, pressures, coercion or promises any kind being made to me.

Print Name____________________________________
Signature______________________________________
Location ______________________________________
Date & Time____________________________________

Witnesses:
Police Officer____________________________________________________________
Police Officer____________________________________________________

Appendix A
REASONABLE SUSPICION

AN OFFICER’S SUSPICION BASED ON SPECIFIC FACTS AND INFERENCES, THAT WOULD LEAD A REASONABLE PERSON TO CONCLUDE THAT, SOMEONE BEING STOPPED, MAY HAVE COMMITTED, MAY BE COMMITTING, MAY BE ABOUT TO COMMIT A CRIME.

You must be able to point to specific and articulable facts which, taken together with rational inferences from those facts realistically form the basis of the requisite for reasonable suspicion. It is not based on your mere suspicion or a “hunch,” but to the specific reasonable inferences which you are entitled to draw from the facts in light of your experience.

Appendix B
PROBABLE CAUSE

FACTS OR CIRCUMSTANCES

THAT WOULD LEAD

A REASONABLE PERSON

TO BELIEVE

THAT AN OFFENSE

HAS BEEN COMMITTED;

OR THAT SEIZABLE OBJECTS

ARE IN

THE PLACE TO BE SEARCHED.

Appendix C
PROPERTY RECEIPT & NOTIFICATION FORM

I acknowledge that the items listed below were seized / voluntarily relinquished.

1. ________________________________________________________________

2. ________________________________________________________________

3. ________________________________________________________________

4. ________________________________________________________________

5. ________________________________________________________________

6. ________________________________________________________________

7. ________________________________________________________________

8. ________________________________________________________________

9. ________________________________________________________________

10. ________________________________________________________________

NOTICE OF YOUR LEGAL RIGHT FOR RETURN OF SEIZED PROPERTY

If due to a seizure property was taken from you, whether or not the seizure was executed pursuant to a warrant, you may file a motion for return of the property on the ground that you are entitled to the lawful possession of the property. This written motion must be filed in the Court of Common Pleas for Allegheny County, at the Allegheny County Courthouse, 436 Grant Street, Pittsburgh, PA 15219. The Court will decide whether your property will be returned. If your motion is granted, your property will be returned to you unless the Court determines that the property is contraband. If your property is determined to be contraband, then the Court may order that your property be forfeited. You may file a motion for a return of property on your own at the above address or, take this paper to a lawyer. If you do not have or know a lawyer, then you should contact the Lawyer Referral Service at the Allegheny County Bar Association, 920 City-County Building, Pittsburgh, PA 15219, TELEPHONE: 412-261-0518.

Print Name________________________________Signature____________________________________
Location___________________________________________________________________________
Date/Time____________________________________________________
Officer___________________________________________________________Officer__________________

Appendix D
THE ALLEGHENY COUNTY
CHIEFS OF POLICE ASSOCIATION

MODEL
EXCITED DELIRIUM
POLICY

Initial issue 2008, revised 2012, 2017

In Partnership With
The Allegheny County District Attorney’s Office

June-2017
Attached is a revised (red font) Model “Excited Delirium” policy offered by the Allegheny County Chiefs of Police Association in partnership with the Allegheny County District Attorney’s Office that may be of use to your department.

This model policy should serve as a starting point, to be reviewed, by the Chief/Superintendent, your Municipality, Emergency Medical Services (EMS) and Hospital Emergency Room (ER) providers, Insurance Carrier and revised to coincide with department size, population density and other unique characteristics of your community before being implemented.

Some educational websites on the topic are listed below:

https://www.youtube.com/watch?v=iu9nsyASv1
https://www.youtube.com/watch?v=Kxyzu1DdKm8
http://www.southernnevadahealthdistrict.org/ems/excited-delirium.php
http://www.policewriters/columnists/force-science/articles/119828/
http://www.policewriters/columnists/force-science/articles/1269555/
http://policewriters/columnists/CharlesRemsberg/articles/134670
http://www.policewriters/edp/articles/134671
http://www.sjpdu/Records/Management_Of_Subjects_In_Excite_Delirium.pdf
Officers periodically will come into contact with individuals exhibiting bizarre behavior. This behavior is often a result of alcohol intoxication, the influence of drugs, mental illness, uncontrolled anger, or a combination of these factors. However, in some cases bizarre behavior may be associated with a serious medical condition referred to as excited delirium, which in some instances has a high risk of death. It is believed that intense physical exertion, such as when a subject violently resists arrest for prolonged periods, may increase the risk of death.

01 PURPOSE

The purpose of this policy is to provide police officers with general guidelines on Excited Delirium.

02 Policy:

This policy is intended to assist officers; (1) identify individuals who are possibly in a state of excited delirium, (2) manage the situation in a manner that may minimize the risks to all those involved, including the delirious individual, and (3) facilitate medical care for the individual as soon as practical while also maintaining the need for officer self-protection and that of innocent bystanders.

03 Definition and Indicators:

Excited delirium (ED) is not recognized as a diagnosis of its own but a symptom of an underlying disorder. ED is one of several terms that describe a syndrome characterized by psychosis and agitation and may be caused by several underlying conditions. It is frequently associated with combativeness, elevated body temperature, excessive strength and endurance without fatigue. The condition can be caused by several factors including, among others, chronic drug use (particularly cocaine or methamphetamine abuse), substance withdrawal, and/or in people with a history of mental illness who are not taking their medications properly. In some of these cases, the individual is medically unstable and in a rapidly declining state that has a high risk of death in the short term even with medical intervention. The person’s ability to focus, sustain, or shift attention is impaired, and he/she is easily distracted. The person’s speech may be rambling and incoherent, and it may be difficult or impossible to engage the person in conversation. The person may also be disoriented in regard to time and/or location, misinterpret perceptions, be delusional, and/or experience hallucinations. Due to an elevated body temperature, many of these individuals remove one or more items of clothing, and they often appear impervious to pain. A person in an excited delirium state may also exhibit one or more of the following:

- Constant or near constant activity
- Irresponsiveness to police presence
- Extreme aggression or violence
- Excessive strength/endurance (out of proportion)
- Bizarre, irrational behavior/violent resistance/struggling, paranoia
- Constant yelling/screaming/talking incoherently/making animal like noises
- Self-inflicted injuries/aggression toward inanimate objects
- Excessive body temperature/profuse sweating or profoundly dry
- Inappropriate attire: often naked or semi clothed
• Insensitivity to pain/unexplained strength/endurance

An officer has neither the expertise nor the opportunity in these situations to diagnose the underlying cause or type of the delirium in an individual. As a result, when an officer reasonably believes an individual may be in an excited delirium state, the individual is to be treated as if he/she is in a medical crisis and will require medical attention. The individual must receive medical attention regardless of whether the subject is also suspected of being under the influence of drugs and/or alcohol.

The nature of this delirium and its effects on the body are such that continued struggling may worsen the medical condition, and may result in the person’s death in rare instances. The Department recognizes that under some conditions it is necessary to subdue a person, even one suspected of suffering from excited delirium. It is possible for a person in this condition to die, even when officers take all reasonable precautions. When it becomes necessary to subdue a person who is believed to be in an excited delirium state, officers should attempt to minimize the intensity/length of the struggle and seek immediate medical attention for the person thereafter.

04 Incident Management

Once an officer reasonably believes that an individual may be in an excited delirium state, the incident should be managed as a medical emergency, in addition to whatever other law enforcement response may be required under the circumstances, including the use of objectively reasonable force.

05 Officer(s) Response Procedure:

• Assess situation for any possible ED indicators, conferring with on-site witnesses if possible and safe to do so.

• If ED is suspected, eliminate unnecessary emergency lights and sirens, request back-up officers and stage EMS personnel nearby but at a safe distance away.

• Establish containment of area and await substantial assistance unless there is a significant public safety risk that requires immediate intervention.

• Formulate custody plan prior to making physical contact with subject. Attempts to de-escalate the situation by talking calmly to the subject should be undertaken as practicable, although subjects are typically unresponsive to verbal direction.

• If the subject is contained and does not appear to pose an immediate threat, there is no rush. It may take some time for the subject to calm down.

• Officers should use calming communicative attempts when possible.

• Sharp authoritative commands should be avoided unless necessary.

• Be prepared to repeat instructions or questions.

• Attempt to have the individual sit down, which may have a calming effect.
• If safe to do so, attempt to refrain from maintaining constant eye contact, as this may be interpreted as threatening.

• If a family member or another person who has a rapport with the individual can safely participate, enlist his/her assistance in attempting to gain the individual’s cooperation.

• Once a sufficient number of officers are present and officers determine it is appropriate to take the subject into custody for his/her own safety and/or for criminal conduct, the custody plan must be executed as quickly as possible to prevent the escalation of the excited state of the subject, prolonged exertion by the subject, and an increase in distress.

• It may be possible to limit the subjects’ resistance by employing several officers simultaneously to restrain the person quickly.

• Pain compliance techniques including pepper spray, baton strikes, and empty hand control, will likely be diminished with individuals unresponsive to pain.

• **IF OC (MACE) is used, Officers must be particularly aware of asphyxia issues in conjunction with prone or compressed and restrained positioning.**

  Note: Use of neck restraints or similar weaponless control techniques (Lateral Vascular Neck Restraint) is prohibited unless deadly force is warranted.

• **ECD application in probe mode may be a better option to consider, however continuous cycling may increase risk to the subject.**

  One Taser firing in the probe mode, followed by a physical takedown using a swarming technique that does not impair respiration, may provide the optimum outcome.

• Once controlled, based on subject size, consider using “Double Cuffing” option. This allows the chest to have better expansion for breathing.

• Position in a sitting or side position and continue to try verbally calming the subject.

• Do not use “Hog-tying Hobble” technique.

• **A SUBJECT WHO SUDDENLY BECOMES QUIET OR WHO NO LONGER OFFERS RESISTANCE SHOULD BE IMMEDIATELY ASSESSED TO ENSURE ADEQUATE BREATHING AND THE PRESENCE OF A PULSE.**

06 **Subject Handling and Custodial Procedures:**

• Avoid pressure to the chest, neck and head.

• Place subjects in sitting position or on side to facilitate breathing.

• Do not place knees into subject’s chest/back or do anything to constrict breathing.

• Ensure chest is not compressed.
Some individuals believed to be in an excited delirium state have gone into cardiac arrest shortly after a struggle ended. As a result, the person’s breathing shall be monitored at all times.

Coordinate with on scene EMS personnel to transfer custody of the subject to them, assisting in any way to avoid delay in transport to a medical facility. The person is to be transported by ambulance to an emergency medical facility for evaluation and treatment. Ideally, they should not be transported in a police car; however, immediacy of transport is the overriding objective.

Be observant for sudden lack of resistance or sudden quiet by subject-facilitate life saving measures and/or immediate transport to a medical facility as necessary.

Respond to the medical facility to assist and brief medical personnel as necessary.

After treatment, if transferred back to police custody, continue regular monitoring.

RESPONDING TO EXCITED DELIRIUM TYPE SITUATIONS
MAY INVOLVE SPONTANEOUS JUDGEMENT BASED UPON QUICKLY EVOLVING SCENARIOS.
The Allegheny County Chiefs of Police Association

DISORDERLY CONDUCT
MODEL GUIDELINES

An Allegheny County Criminal Justice Advisory Board Project

Initial Issue 2014

In Partnership With
The Allegheny County District Attorney’s Office

2021
DISORDERLY CONDUCT GUIDELINES

Below are sample guidelines that may help outline as to what conduct violates the third clause of Title 18 Pa.C.S. § 5503 the Pennsylvania Disorderly Conduct statute.

Title 18 Pa.C.S. § 5503, Disorderly Conduct reads in part:
(a) OFFENSE DEFINED.- A person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he: 

(3) uses obscene language, or makes an obscene gesture;...

The term ‘obscene’ as used in subsection (3) does not refer to simple profanity, indecent speech or gestures. Members of the public may not be cited solely for the use of profane words or gestures, even when directed at law enforcement officers, because simple profanity by word or gesture is still considered speech protected by the First Amendment.

In Miller v. California, the Supreme Court held that language can only be considered obscene if:

(a) the average person, applying contemporary community standards” would find that the speech, taken as a whole, appeals to the prurient interest, (b) it depicts or describes, in a patently offensive way, sexual conduct specifically defined by an applicable state law, and (c) the speech, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Prurient Interest is defined as a morbid, degrading and unhealthy interest in sex, as distinguished from a mere candid interest in sex.

Clearly, speech that is commonly referred to as cursing, swearing or profanity does not fit into the definition of obscenity when the speech is not used in a sexual manner. This is true whether the language is used between members of the public or directed towards law enforcement.

Our Courts have repeatedly held that people have a constitutionally protected right to call an officer (or each other) an “asshole,” flip “the bird” or use the “F__Bomb” without violating Section 5503. Commonwealth v. Hock 728 A.2d 943 (1999), Commonwelth v. Kelly 758 A.2d 1284 (2000), Johnson V. Campbell 332 F.3d 199 (2003).

Profanity is, however, often used in connection with starting a fight and to invite an immediate breach of the peace in violation of subsection (1) of 5503. In these situations the result of such speech is not protected, but the correct charge is 5503(a)(1)—engaging in “fighting or threatening, or violent or tumultuous behavior,” and not 5503(a)(3). Police should not hesitate in these circumstances to charge accordingly.

As a final note, Police must be aware that language that might constitute fighting words between members of the public, are not fighting words when directed at law enforcement. It has been held that law enforcement must expect that they will be exposed to such situations and must remain professional and not assault the speaker. The bottom line is that the disorderly conduct statute may not be used as a vehicle to protect law enforcement personnel from all verbal indignities.
The Allegheny County Chiefs of Police Association

POLICE ACTION
BEING OBSERVED, PHOTOGRAPED
OR VIDEO RECORDED
GUIDELINES


In Partnership With
The Allegheny County District Attorney’s Office

2020
ACCPA-ACDA- SAMPLE GUIDELINES

POLICE ACTION BEING OBSERVED, PHOTOGRAPHED OR VIDEO RECORDED

In further expansion of the ongoing working partnership between the Allegheny County Chiefs of Police Association and the Allegheny County District Attorney’s Office, attached are sample guidelines on Police Action Being Observed, Photographed or Video Recorded.

Upon discovery that a bystander is observing, photographing, or video recording the conduct of police activity:

1. **DO NOT** impede or prevent the bystander's ability to continue doing so based solely on your discovery of his/her presence.

2. **DO NOT** seize or otherwise demand to take possession of any camera or video recording device the bystander may possess based solely on your discovery of his/her presence.

3. **DO NOT** demand to review, manipulate, or erase any images or video recording captured by the bystander based solely on your discovery of his/her presence.

4. For investigative purposes, be mindful of the potential that the bystander may witness, or capture images/video of events considered at some later time to be material evidence.

5. **BEFORE** taking any police action which would stop a bystander from observing, photographing, or video recording the conduct of police activity, Officer(s) must have observed the bystander committing some act [deemed criminal, such as obstruction, disorderly conduct or interfering with an officer's lawful duties].

   **Nothing in this guideline prevents an Officer from seizing personal items incident to arrest, including phones, video recording devices and cameras.**

   **Officer safety is paramount and should always come first. Nothing in this guideline is intended to suggest that an officer should fail to do anything that would place him/her or the public in physical danger.**
This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.

Educational Training Videos that demonstrate examples of presenting a sequential photo array, the folder shuffle system and sequential line-ups are available for your officers to watch while on-duty at NO COST from the Norwood Police Department & Crossfire Training at:

- Sequential Photo Array (copy & paste to your browser) [http://www.youtube.com/watch?v=pcFy6T_s8OE](http://www.youtube.com/watch?v=pcFy6T_s8OE)
- Folder Shuffle System (copy & paste to your browser) [http://www.youtube.com/watch?v=5ZwN61Z9zoA](http://www.youtube.com/watch?v=5ZwN61Z9zoA)
- Sequential Line Ups (copy & paste to your browser) [http://www.youtube.com/watch?v=HY8NzTCT97Q](http://www.youtube.com/watch?v=HY8NzTCT97Q)

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IX. Appendices
THE ALLEGHENY COUNTY CHIEFS OF POLICE ASSOCIATION

EYEWITNESS IDENTIFICATION PROCEDURES

I. Purpose

In order to implement the most reliable method for the collection of eyewitness evidence, this protocol is designed so that law enforcement officials conduct sequential photo arrays and lineups with non-suspect fillers chosen to minimize suggestiveness, non-biased instructions to eyewitnesses, and assessments of confidence immediately after identification. **If possible, the Eyewitness Identification Procedure and the witness’ statement of certainty will be recorded** (See p.13, Section VI, subsection F).

Changes in law and procedure, as well as training provided on this procedure, will give rise to modifications and updates.

This protocol is designed to ensure that the highest quality evidence possible is obtained from eyewitnesses to identify and prosecute the guilty, and to exclude the innocent. For some of the procedures, there is no one right method of implementing the principles stated therein. Some methods will require more resources and effort than others. It is recognized that the ability to fully implement the protocol and the applicable procedures will vary among individual law enforcement agencies, depending on available resources, and that the procedures will often be tailored to meet individual circumstances. No one document can address all of the circumstances and/or exigencies that are encountered in the field. These procedures are not intended to be a comprehensive treatment of all factors involved in criminal investigation. Rather, it is a protocol and procedural guide outlining “best practice” procedures for eyewitness identification matters.
II. **Protocol**

1) Photo arrays and lineups should be constructed with non-suspect fillers chosen to minimize any suggestiveness that might point toward the suspect.

2) If adequate staffing is available and safety measures are not compromised, photo arrays and lineups are considered by some experts to be most reliable using a double blind procedure, in which the administrator is not in a position to unintentionally influence the witness’s selection.

3) Witnesses viewing photo arrays and lineups should be instructed that the actual perpetrator may or may not be present.

4) Witnesses viewing photo arrays and lineups should view the suspect and fillers one at a time (sequentially) rather than all at once (simultaneously).

5) Eyewitnesses’ confidence should be assessed immediately after identification. To protect against artificially inflated confidence levels, it is imperative that the witness's confidence in identification be recorded immediately after an identification procedure to prevent influence from information learned after the procedure.

6) Avoid multiple identification procedures in which the same witness views the same suspect more than once.

III. **Definitions**

1) Confidence Statement: A clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words that indicates the eyewitness is sure that the person identified in the given lineup is the perpetrator. A numeric value of certainty is not required.

2) Eyewitness: A person whose identification by sight of another person may be relevant in a criminal proceeding.

3) Filler: A person or photograph who is not suspected of an offense and is included in the lineup.

4) Double Blind Lineup Administrator: An officer who is not participating in the investigation of the criminal offense and is unaware of which person in the lineup is the suspect.

5) Live Lineup: A non-suggestive display of individuals that includes the suspect and five (5) individuals who are similar in appearance, and who are presented one at a time to a witness for identification purposes; this is often referred to as a physical or body lineup.
6) Photo Array: A procedure where photographs are displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of the crime.

7) Sequential Photo Array: An array of photographs, including the suspect and seven (7) fillers who are similar in appearance, that are presented one at a time to an eyewitness for identification purposes.

8) Showup: The presentation of only one suspect to an eyewitness.

IV. Photo Arrays
A procedure where photographs are displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of the crime.

A. Composing the Array

Though complete uniformity of features is not required, the person composing the photo array should ensure the array is comprised so the suspect does not unduly stand out.

1) **Number of Suspects.** Include only one suspect at a time in each identification procedure.

2) **Photo of Suspect.** If multiple photos of the suspect are reasonably available, select a photo resembling the suspect’s description or appearance at the time of the incident.

3) **Number of Fillers.** Except in extraordinary circumstances, include a minimum of seven (7) fillers (photos of nonsuspects) per identification procedure.

4) **Resemblance of Fillers to Suspect.** Fillers should resemble the witness’ description of the suspect in significant features (e.g., face, height, weight, age, etc.) or, in cases where a composite is used, based on the filler’s resemblance to the composite. If the suspect was described as having an unusual identifying mark, all fillers should have similar markings or all photos should include similar coverings over the described area. When there is an inadequate description of the suspect, or when there is a suspect whose appearance differs from the description of the suspect, fillers should resemble the suspect in significant features. For example, if a suspect is identified through fingerprints and the suspect’s appearance differs from the witnesses’ description of the perpetrator, fillers should be chosen who resemble the suspect in appearance. View the entire photo array (out of the witness’s presence) to ensure that no person unduly stands out.

5) **Information on Previous Arrests.** Ensure that no writings or information concerning a previous arrest will be visible to the witness.

6) **Filler as Lead Photo.** Always lead photo arrays with a filler (give the array administrator one filler photograph to be used as the first photo shown). Research suggests witnesses are reluctant to identify someone in the first position and, if that person is the suspect, a misidentification may result.
7) **Arrangement of Other Photos.** Give the photo array administrator the lead filler photo (photo number one), two blank photos (numbered 9 and 10), and the suspect photo and remaining filler photos. Do not tell the administrator which photo is the suspect. Have the administrator mix the unnumbered photos and number them 2 to 8. (This assumes 7 fillers. These numbers and the numbers for the blank photos will, of course, change if a different number of fillers is used). Photos 9 and 10 are blank and are not shown to the witness but are used so the witness does not know when he or she is viewing the last photo.

8) **Positioning of Suspect When Multiple Arrays Used.** Have the administrator remix photos 2 to 8 and renumber them accordingly, in each subsequent photo array when there are multiple witnesses for the same case. Placement in this way reduces the possibility that a subsequent witness identifies someone based on the position number communicated to them by a previous witness. Effective separation of witnesses, as recommended in B.1., below, will prevent inappropriate communication between witnesses.

9) **Reuse of Fillers for Same Witness.** When showing a new suspect, avoid reusing the same fillers previously used in arrays shown to the same witness.

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**B. Conducting the Array**

The identification procedure must be conducted in a manner that promotes the accuracy, reliability, fairness, and objectivity of the witness identification. If possible, the procedure and the witness’ statement of certainty will be recorded (See p.13, Section VI, subsection F).

1) **Instruction.** Whenever practicable, the witness should be given standard instructions before viewing the suspect (Appendix A). Witnesses will be given a written copy of the instructions in Appendix A and asked to sign and date. If for some reason they do not want to sign, mark REFUSED and initial.

2) **Separation of Witnesses.** Separate all witnesses. Each witness should be given identification procedure instructions without the presence of other witnesses. Witnesses should not be allowed to confer with one another before, during, or after the procedure. Each and every witness should be presented photographs in a different and documented order as stated above.

3) **Presence of Persons Aware of Suspects Identity.** Ideally, no one should be present during the photo array procedure that knows the suspect’s identity except counsel, if applicable. It is recognized that, in practice, this recommendation is sometimes not feasible.

4) **Initial Instructions to Witness.** The photo array administrator should give identical instructions at the beginning of each identification procedure (See Appendix A). Witnesses will be given a written copy of the instructions in Appendix A and asked to sign and date. If for some reason they do not want to sign, mark REFUSED and initial.
5) **Influencing the Witness.** The administrator should avoid making any comments during the identification procedure and should be aware that witnesses may perceive things like unintentional voice inflection or prolonged eye contact as messages regarding their selection.

6) **Availability of Other Results to Witness.** Ensure that no writings or information concerning previous identification results are visible to the witness.

7) **Awareness of Witness of Number of Photos.** The witness should not know how many photos will be shown.

8) **Presentation of Photos.** Present each photo to the witness separately, in a previously determined order, removing those previously shown. Hand the first photo to the witness for viewing. When the witness is done viewing the photo, have the witness hand the photo back. The second photo is then handed to the witness and the process is repeated through photo number 8. Show all photos to the witness, even if an identification is made before the procedure is completed.

9) **Commenting on Selection and Outcome.** Do not give the witness any feedback regarding the individual selected or comment on the outcome of the identification procedure in any way.

10) **Request for Additional Viewing.** If the eyewitness requests to see one or more of the photos again after viewing the entire array, the officer will present the entire array (one additional time) to the eyewitness. If this occurs, it must be thoroughly documented. The second viewing should occur only if the witness requests it and only after the first procedure is completed; it should never be at the suggestion of the lineup administrator.

11) **Alteration of Materials by Witness.** Ensure that the witness does not write or mark any materials that will be used in other identification procedures.

**C. Sequential Presentation**

Photos should be presented sequentially (one at a time), rather than simultaneously. Sequential presentation requires each photo to be presented to the witness separately, in a previously determined order, removing each photo after it is viewed (simultaneous presentation presents all photos or individuals at the same time). Sequential presentation reduces the occurrence of misidentifications that result from a witness making relative judgment identifications by comparing members of the array to determine which one looks most like the suspect, rather than focusing on whether a particular array photograph actually is the suspect.
D. Folder Shuffle Method

1. The “Folder System” was devised to allow for blind photo array administration in circumstances where limited personnel resources are available. Should the investigating officer of a particular case be the only law enforcement personnel available to conduct a photo array, the following procedures are recommended:

2. Obtain one (1) suspect photograph that resembles the description of the perpetrator provided by the witness.

3. Obtain seven (7) filler photographs that match the description of the perpetrator, but do not cause the suspect photograph to unduly stand out.

4. Obtain ten (10) file folders (Two (2) of the folders will not contain any photos and will serve as “dummy folders”).
   
   a. Affix one (1) filler photograph to the inside of the first folder and label it “#1”.
   
   b. The individual administering the lineup should affix the suspect photograph to the inside of the next folder. It is imperative that this folder is NOT yet numbered.
   
   c. Affix the other six (6) filler photographs (one each) into the empty folders. It is imperative that these folders are NOT yet numbered.
   
   d. Shuffle the folders (with the exception of folder #1) so that the administrator is unaware of which folder the suspect is in.
   
   e. Label the remaining folders #2 through #8.
   
   f. The remaining folders (Folders #9 & 10) will contain a page with the following text: “THIS FOLDER INTENTIONALLY LEFT BLANK”. [This is done so that the witness does not know when he has seen the last photo.
   
   g. The administrator should provide instructions to the witness (Appendix A).
   
   h. Without looking at the photo in the folder, the administrator is to hand each folder to the witness individually. The witness must view the photo in the folder and then return it to the administrator before being presented with the next folder.
E. Documenting and Recording Procedures and Results

1) Preserving Presentation Order and Photos. After the photos have been viewed, they should be marked, denoting the order in which presented to the witness, and retained in their original condition for possible later use. (See 3 below)

2) Documenting Procedure. The photo array administrator will document: his or her name; the procedure employed; the number of photos shown; sources of all photos used; names of persons present during the array; and the date, time, and location of the procedure. If, pursuant to a request, additional viewing occurs, that procedure should be thoroughly documented.

3) Recording Results. The photo array administrator will preserve the outcome of the procedure by documenting any identification or nonidentification results obtained from the witness. Preparing a complete and accurate record of the outcome of the identification procedure is crucial. The record can be a critical document in the investigation and any subsequent court proceedings.

a. Recording results and witness certainty. Each of the witness’ responses to the question: “Is this the person you saw [insert description of act here]?” should be documented with a reference to the number of the photo being presented and the exact response given. If the witness answers “no” to the question, the next photo is shown.

b. Witness signing of results. Ensure identification results are signed and dated by the witness. Specifically, have the witness sign and date the photo identified.

V. Live Lineup Procedure

Below are procedural guidelines for that rare occasion when there is no other method to have an eyewitness attempt to identify the perpetrator of a crime, a defendant or his/her counsel request, or a Judge orders a “Live Lineup.”

(See page 14, Section VII-Legal Issues, subsection B, Right to Counsel)

Refer to Appendices B and B1 for specific procedures.

A. Composing the Lineup

Though complete uniformity of features is not required, the person composing the live lineup should ensure the lineup is comprised so the suspect does not unduly stand out.

1) Number of Suspects. Include only one suspect at a time in each identification procedure.

2) Number of Fillers. Include a minimum of five fillers (nonsuspects) per identification procedure.

3) Resemblance of Fillers to Suspect. Fillers should resemble the witness’ description of the suspect in significant features (e.g., face, height, weight, age, build, etc.) or, in cases where a composite is used, based on the filler’s resemblance to the composite. If the suspect was described as having an unusual identifying mark, all fillers should have similar markings or all lineup members should have similar coverings over the described area. When there is an inadequate description of the suspect, or when there is a suspect whose appearance differs from
the description of the perpetrator, fillers should resemble the suspect in significant features. For example, if a suspect is identified through fingerprints and the suspect’s appearance differs from the witnesses’ description of the perpetrator, fillers should be chosen who resemble the suspect in appearance. View the entire lineup (out of the witness’s presence) to ensure that no person unduly stands out.

4) **Filler as Lead Person.** Always lead lineups with filler. Research suggests witnesses are reluctant to identify someone in the first position and, if that position is the suspect, a misidentification may result.

5) **Positioning of Suspect When Multiple Lineups Used.** Place the suspect in different positions in each lineup when there are multiple witnesses for the same case. Position all other members of the lineup randomly. (Placement in this way eliminates the possibility that a second or third witness identifies someone based on the position number communicated to them by the first witness.)

6) **Reuse of Fillers for Same Witness.** When showing a new suspect, avoid reusing the same fillers previously used in lineups shown to the same witness.

### B. Conducting the Lineup

The identification procedure should be conducted in a manner that promotes the accuracy, reliability, fairness, and objectivity of the witness identification. The recommendations below are designed to enhance the accuracy of identification or nonidentification decisions by the witness.

1) **Instruction.** Whenever practicable, the witness should be given standard instructions before viewing the suspect (Appendix B). Witnesses will be given a written copy of the instructions in Appendix B and asked to sign and date. If for some reason they do not want to sign, mark REFUSED and initial.

2) **Separation of Witnesses.** Separate all witnesses. Each witness should be given identification procedure instructions without the presence of other witnesses. Witnesses should not be allowed to confer with one another either before, during, or after the procedure.

3) **Presence of Persons Aware of Suspect’s Identity.** Ideally, no one should be present during the lineup procedure who knows the suspect’s identity except counsel, if applicable. It is recognized that, in practice, this recommendation may not be feasible.

4) **Initial Instructions to Witness.** The lineup administrator should give the identical instruction at the beginning of each identification procedure (See Appendix B). Witnesses will be given a written copy of the instructions in Appendix B and asked to sign and date. If for some reason they do not want to sign, mark REFUSED and initial.

5) **Influencing the Witness.** The administrator should avoid making any comments during the identification procedure and should be aware that witnesses may perceive things like unintentional voice inflection or prolonged eye contact as messages regarding their selection.

6) **Awareness of Witness of Number of Individuals.** The witness should not know how many individuals will be shown.
7) **Presentation of Individuals.** Begin with all lineup participants out of the view of the witness. Present each individual to the witness separately, in a previously determined order, removing those previously shown.

8) **Identification Actions of Participants.** Ensure that any identification actions (e.g., speaking, moving, etc.) are performed by all members of the lineup.

9) **Commenting on Selection and Outcome.** Do not give the witness any feedback regarding the individual selected or comment on the outcome of the identification procedure in any way.

10) **Request for Additional Viewing.** If the eyewitness requests to see a specific individual after viewing the entire lineup, the officer will present the entire lineup (one additional time) to the eyewitness. If this occurs, it must be thoroughly documented. The second viewing should occur only if the witness requests it and only after the first procedure is completed; it should never be at the suggestion of the lineup administrator.

**C. Sequential Presentation**

Live lineups should be presented sequentially (one at a time), rather than simultaneously. Sequential presentation requires each individual to be presented to the witness separately, in a previously determined order, asking each viewed individual to leave after he/she is viewed. (Simultaneous presentation presents all individuals at the same time). Sequential presentation reduces the occurrence of misidentifications that result from a witness making relative judgment identifications by comparing members of the lineup to determine which one looks most like the suspect, rather than focusing on whether a particular individual in the lineup actually is the suspect.

**D. Documenting and Recording Procedures and Results**

1) **Preserving Lineup and Presentation Order.** Document the lineup by photo or video. The documentation should represent the lineup clearly and fairly. Photo documentation can be of either the group or each individual, but should preserve the presentation order of the lineup.

2) **Documenting Procedure.** The lineup administrator will document: his or her name; the procedure employed; the number of individuals shown; specific words, conduct, or gestures required of lineup participants; names of persons present during the lineup; and the date, time, and location of the procedure. If, pursuant to a request, additional viewing occurs (see B. 9., above), that procedure should be thoroughly documented.

3) **Recording Results.** The lineup administrator will preserve the outcome of the procedure by documenting any identification or nonidentification results obtained from the witness. Preparing a complete and accurate record of the outcome of the identification procedure is crucial. The record can be a critical document in the investigation and any subsequent court proceedings.

   a. **Recording results and witness certainty.** Each of the witness’ responses to the question: “Is this the person you saw [insert description of act here]?” should be documented with a reference to the number of the individual being presented and the exact response given. If the witness answers “no” to the question, the next individual is shown.

   b. **Witness signing of results.** Ensure identification results are signed and dated by the witness. (See Appendix B)
VI. Show Up

Presenting one suspect to an eyewitness for the purpose of a positive identification, shortly after the occurrence of a crime.

A. Show-Up Procedure

It is recognized that, although show-ups are inherently more suggestive than the eyewitness identification procedures previously recommended, under some circumstances the use of show-ups is appropriate. It is difficult to identify all these circumstances but generally, although not exclusively, they arise when circumstances require the prompt display of a suspect to a witness and the suspect matching the description of the perpetrator is located in close proximity in time and place to the crime.

If used in appropriate circumstances and with appropriate procedures, show-ups can be a reliable means for both identifying and excluding suspects. In particular, their use in close proximity in time to the crime can be advantageous: the witness’s memory is fresh and the suspect’s appearance is ordinarily unchanged. However, because of the suggestiveness of the procedure, it is important to adhere to some basic procedural components when a show-up is utilized.

B. Documenting Description

A description of the suspect by a witness will be documented before the show-up procedure is commenced.

C. Location of Suspect

If practical, transport the witness to the location of the detained suspect to limit the legal impact of the suspect’s detention and to minimize the influence on the witness of seeing the suspect transported under custody.

A show up should not be conducted of a suspect who is in a detention/jail cell or of a suspect who is handcuffed/shackled.

D. Conducting the Procedure

1) **Instruction.** Whenever practicable, the witness should be given standard instructions before viewing the suspect (Appendix C). Witnesses will be given a written copy of the instructions in Appendix C and asked to sign and date. If for some reason they do not want to sign, mark REFUSED and initial.

2) **Suggestive Words or Conduct.** Words or conduct of any type that may suggest to the witness that the individual is or may be the suspect should be carefully avoided. The suspect should not be presented to a witness more than one time, nor should the suspect be asked to wear clothing that is the same or similar to clothing worn by the perpetrator. Likewise, suspects should not be asked to speak words uttered by or recreate actions used by the perpetrator.
3) **Confidence Statement.** If a positive identification is made, the witness should be asked: “without using a number or percentage, in your own words, tell me how certain you are?” The witness should not be compelled to answer this question.

4) **Multiple Witnesses.** Show-ups should not be conducted with more than one witness present at a time. If there are multiple witnesses and one witness makes an identification during a show-up, consider reserving the remaining witnesses for a sequential photo array or sequential live lineup identification procedure, as previously outlined.

**E. Documenting the Procedure**

A person conducting the procedure will document: his or her name; the date and time of the procedure; the procedure employed, including the location of the procedure and whether the witness was transported to the suspect or vice versa; the appearance of the suspect, by taking a photo or video if possible; specific instructions or information provided to the witness; specific words, conduct, or gestures required of the suspect; and names of persons present during the procedure.

**F. Recording Results**

If shown at the station, the Eyewitness Identification Procedure (array) and the witness’ statement of certainty will be recorded.

If the Eyewitness Identification Procedure (array) and the witness statement of certainty is made in the field, an audio and video recording should be made (i.e. MVR, BWC, Go Pro Camera or Department issued smart phone). The video should then be included with other video evidence in the case.

A person conducting the procedure will document each of the witness’s responses regarding the identity of the suspect and, if a positive identification is made, the witness’s response concerning the degree of certainty. The witness’s statements should be recorded verbatim, or as close to verbatim as possible. Identification results should be signed and dated by the witness.

**VII. Legal Issues**

**A. The Identification Standard**

The importance of conducting fair and taint-free eyewitness identifications has been reviewed by courts across the United States throughout the years. Both the Pennsylvania Supreme Court and the United States Supreme Court have addressed the issue of witness identification, specifically as to the requisite standard governing photographic identifications.

A photographic identification procedure must be conducted so as not to be “impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification.” Simmons v. United States.
390 U.S. 377, 384, 88 S. Ct. 967 (1968). The Commonwealth bears the burden of establishing that any identification testimony to be offered at trial is free from taint of initial illegality.\(^1\) Commonwealth v. Moore, 633 A.2d 1119, 1125 (Pa. 1994), citing Commonwealth v. Turner, 314 A. 2d 496 (Pa. 1974). Every identification procedure will be analyzed based upon the facts surrounding and/or leading up to the circumstances of the case.

**B. Right To Counsel**

Under Pennsylvania law, the Sixth Amendment’s right to counsel attaches at the time a suspect is arrested, and that right continues to exist for any identification confrontations occurring after the arrest, except for prompt, on-the-scene confrontations (show ups). Commonwealth v. Richman, 320 A.2d 351 (Pa. 1974).

\(^1\) In making this determination, the trial court should consider: “the manner in which the identification procedure was conducted, the witness’ prior opportunity to observe, the existence of any discrepancies between the witness’ description and the defendant’s appearance, any previous identification, any prior misidentification, any prior failure of the witness to identify the defendant, and the lapse of time between the incident and the court identification.” Commonwealth v. Moore, citing Commonwealth v. Fowler, 352 A. 2d 17 (Pa. 1976).

**VIII. CONCLUSION**

Appellate courts, when reviewing the fairness of eyewitness identification, will analyze the identification procedure used based upon the circumstances leading up to and/or surrounding the actual identification of a suspect or suspects.

By understanding the recommendations in this protocol, police departments can implement procedures that can help them ensure that eyewitness identifications are less likely to be construed as tainted and, therefore, inadmissible as evidence in a criminal proceeding.
APPENDIX A
ACCPA Checklist for SEQUENTIAL PHOTO ARRAYS

☐ Read the following instructions to the witness:
In a moment, I am going to show you a series of photos. The person who committed the crime may or may not be included. Even if you identify someone during this procedure, I will continue to show you all the photos in the series. Keep in mind that things like hairstyles, beards, and mustaches can be easily changed and that complexion colors may look slightly different in photographs.

You should not feel you have to make an identification. This procedure is important to the investigation whether or not you identify someone. Regardless of whether you identify any suspect as the perpetrator, the police investigation is still ongoing.

☐ Explain the photo array process to the witness:
- I’ll show you a series of photos one at a time, in no particular order.
- Take as much time as you need to look at each one.
- After each photo, I’ll ask you if that is the person who__________________________ (describe the act witnessed).
- If you answer "yes," to confirm, I will then ask you, “without using a number or percentage, in your own words, tell me how certain you are?”
- ☐ Obtain witness’s signature on the back of this form, acknowledging their receipt of these instructions.

☐ Show each photo to the witness. Ask the witness, “Is that the person you saw ____________________________ (insert the act witnessed). “

☐ If a suspect is identified, immediately obtain a confidence statement: Ask the witness: “without using a number or percentage, in your own words, tell me how certain you are?” Document the witness’s statement verbatim on the rear of this form and in your investigative report.

☐ Whether or not an identification is made, continue to show all photos to the witness.

I have received instructions regarding the photo array process. I understand the instructions and I will follow them as I review the photos.
NAME

SIGNATURE ___________________________ DATE ___________________________

I have indicated that photo # ____________ is the person who (describe the act witnessed) ________________________________

Witness Initials _____________

Witness Confidence Statement:

______________________________
______________________________
______________________________

Witness Initials _____________
APPENDIX B
ACCPA Checklist for SEQUENTIAL LINEUPS

☐ Read the following instructions to the witness:
In a moment, I am going to show you a series of individuals. The person who committed the crime may or may not be included. Even if you identify someone during this procedure, I will continue to show you all the individuals in the series. Keep in mind that things like hairstyles, beards, and mustaches can be easily changed and that complexion colors may look slightly different depending upon environmental/lighting conditions.

You should not feel you have to make an identification. This procedure is important to the investigation whether or not you identify someone. Regardless of whether you identify any suspect as the perpetrator, the police investigation is still ongoing. Because you are involved in an ongoing investigation, in order to prevent damaging the investigation, you should avoid discussing this identification procedure or its results.

☐ Explain the lineup process to the witness:
- The individuals will be shown to you one at a time and are not in any particular order.
- Take as much time as you need to look at each one.
- After each individual, I will ask you "Is this the person you saw ________________ [insert description of act here]?"
- If you answer "yes," to confirm, I will then ask you, “without using a number or percentage, in your own words, tell me how certain you are?”

☐ Obtain witness’s signature on the back of this form, acknowledging their receipt of these instructions.

☐ Show each individual to the witness. Ask the witness, “Is that the person you saw ________________ (insert the act witnessed). “

☐ If a suspect is identified, immediately obtain a confidence statement: Ask the witness: “without using a number or percentage, in your own words, tell me how certain you are?” Document the witness’s statement verbatim on the rear of this form and in your investigative report.

☐ Whether or not an identification is made, continue to show all individuals to the witness.

I have received instructions regarding the lineup process. I understand the instructions and I will follow them as I review the individuals.
I have indicated that individual # __________ is the person who (describe the act witnessed)

Witness Initials __________

Witness Confidence Statement:

Witness Initials __________
REQUEST FOR LINE UP

Police Officer Instructions:

- Contact the Allegheny County District Attorney’s Office and request the assistance of a Deputy District Attorney prior to conducting the Lineup.
- If the suspect has been arrested, indicted or formally charged, under Pennsylvania law, Counsel for the suspect is required to be notified and should be present at post-arrest, pretrial lineups in which the suspect is exhibited to identifying witnesses.
- If the suspect has not been arrested.
  - Have the suspect answer and initial the below questions.
  - Have the suspect sign the form in the certification box below.
  - Have a witness sign the form in the certification box.
  - Verify that the forgoing procedure was followed with your signature, date and time.
  - Have suspect verify with his initials the date and time upon completion of these procedures and this form.
  - Please read the following Statement of Procedure to the suspect.

STATEMENT OF PROCEDURE

The arrangement of a lineup has been requested. Individuals possessing similar physical characteristics will be presented to witness(es) for a potential identification.

RIGHT TO COUNSEL FOR AN ACCUSED

Before this procedure is implemented, you have the right for legal counsel to be present during this procedure. If you cannot afford legal counsel, but desire to have legal counsel present, this procedure will be delayed and/or rescheduled so that appointed legal counsel may be present during this procedure.

Do you understand the statement of procedure?
(Please indicate by writing your initials on the appropriate line.)

_______Yes   _______No

Do you understand your right to legal counsel?
(Please indicate by writing your initials on the appropriate line.)

_______Yes   _______No

Do you wish to waive or give up your right to be represented by legal counsel during this procedure? (Please indicate by writing your initials on the appropriate line.)

_______Yes   _______No

Verification

I hereby certify that the above statement of procedure and right to counsel information was read to __________________________ before he was placed in the lineup and that his responses were as indicated above.

SIGNATURE OF OFFICER: ___________________________ DATE: ____________

SIGNATURE OF DEFENDANT: ___________________________ TIME: ____________

INITIAL VERIFICATION OF DEFENDANT ____________
### POLICE DEPARTMENT

**LINE-UP**

**TO BE COMPLETED BY POLICE DEPARTMENT:**

<table>
<thead>
<tr>
<th>DATE:</th>
<th>TIME:</th>
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</table>

**OFFICERS CONDUCTING LINE-UP**

<table>
<thead>
<tr>
<th>Name</th>
<th>Name</th>
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<tbody>
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**OFFICERS WITNESSING LINE-UP**

<table>
<thead>
<tr>
<th>Name</th>
<th>Name</th>
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</tbody>
</table>

**ATTORNEY PRESENT?**  
☐ Yes  ☐ No

If yes, name, address & telephone of attorney:  
Name  
Address  
Telephone Number

**DATE & TIME OFFENSE COMMITTED:**  
____________________________________________________

**NAME OF WITNESS:**  
____________________________________________________

**WITNESS INSTRUCTIONS:** Individuals will appear before you wearing numbers on their chests and backs. If you identify an individual, circle the number below that is the same number of the individual you identified. If you do not identify any individual, do not circle any number. Please sign your name at the bottom of this page when the line-up procedure has been completed.

<table>
<thead>
<tr>
<th>1.</th>
<th>2.</th>
<th>3.</th>
<th>4.</th>
<th>5.</th>
<th>6.</th>
<th>7.</th>
<th>8.</th>
</tr>
</thead>
</table>

**WITNESS SIGNATURE**  
____________________________________________________
APPENDIX
C
☐ Read the following instructions to the witness:

In a moment, I am going to show you an individual. The person may or may not be the suspect.

You should not feel you have to make an identification. This procedure is important to the investigation whether or not you identify someone. Regardless of whether you identify any one as the perpetrator, the police investigation is still ongoing.

After you observe the individual, I will ask you "Is this the person you saw _______________ [insert description of act here]?" Take your time answering the question.

If you answer "yes", to confirm, I will then ask you, “without using a number or percentage, in your own words, tell me how certain you are?”

Because you are involved in an ongoing investigation, in order to prevent damaging the investigation, you should avoid discussing this identification procedure or its results.

☐ Obtain witness’s signature on the back of this form, acknowledging their receipt of these instructions.

☐ Show each individual to the witness. Ask the witness, “Is that the person you saw ____________________________ (insert the act witnessed). “

☐ If a suspect is identified, immediately obtain a confidence statement: Ask the witness: “without using a number or percentage, in your own words, tell me how certain you are ?”

Document the witness’s statement verbatim on the rear of this form and in your investigative report.
I have received instructions regarding the show-up process. I understand the instructions and I will follow them as I review the individuals.

________________________________________
NAME

________________________________________
SIGNATURE                      DATE

I have indicated that the individual shown to me is the person who (describe the act witnessed)

________________________________________

Witness Initials __________

Witness Confidence Statement:

________________________________________

________________________________________

________________________________________

Witness Initials __________
The Allegheny County Chiefs of Police Association

ELECTRONIC RECORDING OF CUSTODIAL INTERROGATION PROCEDURES

An Allegheny County Criminal Justice Advisory Board Project

In Partnership With

The Allegheny County District Attorney’s Office

2015
This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.

I. PURPOSE

The purpose of this procedure is to establish the practice for the electronic recording of custodial interrogations of adults and juveniles along with the associated use, management, storage and retrieval of such recordings. It is recognized that under current Pennsylvania law consent must be obtained from the subject prior to audio recording but not prior to video recording of custodial interrogations. Changes in law and procedure, as well as training provided on this procedure, will give rise to modifications and updates.

I. PROCEDURE

The use of electronic recording during custodial interrogations is intended to enhance the investigative process and assist in the prosecution of criminal cases. The recording of custodial interviews will assist the department in demonstrating the interrogation process, preserving the statements of the accused, and defending against claims such as deprivation of the right to counsel and the right against self-incrimination. While serving to enhance public confidence in the integrity of our investigations and prosecutions, this procedure is mindful of these and other benefits of recordings balanced with the overwhelming public procedure demands upon the police in solving crimes.

II. WIRETAP SCOPE AWARENESS:

ACTING WITHIN THE SCOPE OF THIS PROCEDURE, CONSENT MUST BE OBTAINED FROM THE SUBJECT PRIOR TO AUDIO RECORDING, PER 18 PA. C.S.A § 5701 ET SEQ. (WIRETAPPING AND ELECTRONIC SURVEILLANCE CONTROL ACT).

III. DEFINITIONS

This procedure recognizes the critical distinction between the two police practices of interview and interrogation. The recording requirement under this procedure is for interrogations only. These distinctions notwithstanding, members are encouraged to record at any time in a manner consistent with applicable law, when they feel it will aid in their investigation.

A. Interview: A non-accusatory conversation in which through questions and answers, the police interviewer tries to develop investigative and behavioral information that will test the veracity of statements made by a suspect, victim or witness. Interviews may occur in a variety of circumstances and locations. Officers conducting interviews shall be aware of the nature of questions, their location, the interviewed person’s location, and the conditions present when conducting interviews so that the subject does not have any reason to believe he is in custody. “Miranda Warnings” are not required to be given to a person who is not in custody.
B. **Custodial Interrogation**: Any interrogation during which (i) a reasonable person in the subject’s position would consider himself or herself to be in custody and (ii) during which questions are asked that are reasonably likely to elicit from the subject a confession, or an acknowledgment that he did not tell the truth during an initial statement, whether that person is a suspect who originally denied involvement in an incident, or a victim who fabricated the nature of the alleged offense.

C. **Interested Adult**: An adult who is genuinely interested in the welfare of the juvenile suspect. The interested adult must be informed of the juvenile’s Fifth and Sixth Amendment rights.

D. **Electronic recording**: "Electronic recording" includes motion picture, audiotape, or videotape, or digital recording, or similar capabilities in the making of a record of an interview.

E. **Place of Detention** "Place of detention" means a building or a police station that is a place of operation for a municipal police department or other law enforcement agency, not a courthouse, that is owned or operated by a law enforcement agency at which persons are or may be held in detention in connection with criminal charges against those persons.

F. **Recorded media**: The audio and video signals which are recorded upon a particular medium such as analog recording tape, digital tape, other portable digital storage media and the like.

G. **Members**: All sworn police officers.

H. **Recording location**: For the purpose of this procedure, includes any designated location outfitted with audio-video recording equipment.

I. **Recap interview**: For the purpose of this procedure, when statements and admissions are initially made outside the presence of electronic recording equipment, members should, if possible, conduct an electronically recorded interview in a recording location to reflect the prior statements of the subject.

J. **Serious crime**: Includes homicide, sexual assault, aggravated assault, arson, robbery, burglary, and attempt, conspiracy or solicitation to commit the same, whether by an adult or juvenile.
IV. PROCEDURES

Procedure for Recording

A. RECORDING REQUIRED  Members shall make an electronic recording of custodial interrogations at a place of detention when the subject to be interrogated is reasonably suspected of the commission of a serious crime.

B. EXCEPTIONS  to this recording requirement include:

1. A statement is given that occurs at a time when the interrogators have no knowledge that a crime for which recording is required has been committed;

2. A statement made by the accused in open court or at a grand jury proceeding;

3. A statement made during a custodial interrogation that was not recorded as required because electronic recording was not feasible;

4. A spontaneous statement that is not made in response to a question;

5. A statement made after questioning that is routinely asked during the processing of the arrest of the suspect;

6. If a suspect indicates willingness to answer the interrogator’s questions, but is not willing to consent to any electronic recording of the interrogation, the interrogation may proceed without recording. The interrogator may attempt to record a statement from the suspect regarding his/her unwillingness to be recorded, but this is not an absolute requirement to proceed. The suspect should be requested to indicate his/her declination to be recorded on the Miranda Rights Warning form.

7. A statement made during a custodial interrogation that is conducted out-of-county;

8. A statement (in a homicide investigation) given at a time when the interrogators are unaware that a death has in fact occurred;

9. A statement given at a time when the interrogators are unaware of facts and circumstances that would create probable cause to believe that the accused committed an offense required to be recorded.

10. This procedure is not intended to discourage field interviews and interrogations (i.e., at hospitals, police vehicles, or other locations where recording is not practicable). Members are encouraged to conduct interviews and interrogations at the time when they believe the circumstances are opportune for eliciting information from a subject.
11. Under current Pennsylvania law, consent must be obtained from the subject prior to audio recording. It is recognized, however, that asking for consent to audio record can have a chilling effect on some suspects such that they refuse to continue to give a statement or even talk. Officers must retain the option of obtaining a statement from a suspect without audio recording in those exceptional cases where they reasonably believe and can articulate that asking for consent to audio record would deter a substantive statement. In such cases, when feasible, officers should attempt to obtain consent and audio record a suspect’s statement after a substantive interview has taken place and then adopted by the suspect.

**INFORMATION OBTAINED UNDER ANY OF THE ABOVE EXCEPTIONS AND WHY THE EXCEPTION APPLIES MUST BE DETAILED IN THE SUPPLEMENTAL/INVESTIGATIVE REPORT.**

C. RECORDING RESPONSIBILITY - The member conducting or assisting with the interrogation shall be responsible for the operation of the recording device used during the interrogation and will monitor the same to ensure that the recording is not interrupted.

D. EQUIPMENT - New and unused recording media will be used.

E. PLACE FOR RECORDING - Recordings should generally be made at police facilities. However, nothing in this procedure prohibits recording at other properly equipped locations.

F. RECORDING DURATION - To maximize the effectiveness of electronic recording and the integrity of audio-video documentation, members shall adhere to the following:

1. Interviews may be recorded, in part or in whole, at the discretion of the member (as opposed to interrogations which must be recorded).

2. Miranda warnings (Attachment A) must be read to the suspect before any recorded custodial interrogation ensues. The administration of these warnings shall be recorded as part of the original (“master”) recording. This recording requirement does not extend to any preliminary discussions with the subject before the administration of Miranda warnings and actual interrogation commence.

3. In order to maintain the integrity of other investigations and/or to protect confidential information that may bear upon such matters as the safety of witnesses, the interrogating member shall cause the recording equipment to be deactivated immediately upon the exit of all parties from the interview room upon the conclusion of the interrogation session.

4. The entire custodial interrogation, from the Miranda warning to the conclusion of the interrogation, shall be recorded. Any and all reasons for a break in the recording during this period must be memorialized on the recording and on a written form, signed by the interrogator and the subject interrogated, and made when the recording is stopped and restarted.
5. Nothing in this procedure prohibits the use of electronic recording equipment, consistent with this procedure, for any other interview or interrogation at any location outside of the police facility.

6. Nothing in this procedure prohibits or limits the use of electronic recording equipment, consistent with this procedure, for any interview or interrogation regardless of the type of offense.

The Interrogation

A. AUDIO RECORDING: Prior to reading the suspect his/her Miranda Rights Warning with the audio-video camera on, advise the suspect (while pointing to the camera) that “while we are in this room an audio-video camera is running”. Read the suspect his/her Miranda Rights Warnings and request the form (attachment A) be signed.

B. IDENTIFICATION OF PARTIES: All persons within the interrogation room should be identified on the recording, whether by the interrogating member(s) or by the subject himself.

C. TIME AUTHENTICATION: The interrogating member should state the date and time at the onset of the interrogation, and again at the conclusion of the interrogation.

D. WRITTEN STATEMENTS: The intent of this procedure is to obtain the most accurate information/evidence possible. Barring electronic recording the member should attempt to obtain a written statement or have the suspect sign and date the investigator’s notes.

E. ATTORNEY CONSULTATIONS: The recording shall be continuous and uninterrupted during the interrogation process. If the suspect invokes the right to counsel and the attorney elects to confer privately with the subject, the member responsible for the recording shall advise the attorney of the use of recording equipment, and offer to deactivate the audio, or to provide an alternate room for the conference, or to turn off the recording equipment during the conference between the attorney and the subject. If there is an interruption in the recording in order to accommodate the subject and attorney, note the date and time prior to stopping the equipment and again re-state the date and time when the equipment is again turned on.

F. PARENT/INTERESTED ADULT CONSULTATION: Once it begins, the recording shall be continuous and uninterrupted during the interrogation process. All interviews of juvenile suspects shall include the consent for the recording from both the juvenile and the interested adult who is present. A juvenile suspect may be interrogated when he/she waived his/her Miranda rights without the presence of an interested adult as Pennsylvania no longer recognizes a per se rule that a juvenile is incompetent to waive Constitutional rights without consultation with an interested adult. However, the absence of the juvenile’s right to confer with an interested adult will be viewed as an important factor among the totality of the circumstances for determining whether a waiver is voluntary.
Post Interrogation

A. The member(s) conducting the interrogation shall:

1. PREPARATION OF REPORT: Complete a Supplemental/Investigative Report, indicating that an electronic recording was made or was not made of a custodial interrogation. The substance of all oral admissions must also be documented on the report from all involved members regardless of whether there was a subsequent recorded and/or written statement.

2. INTEGRITY OF RECORDINGS: For those devices that use Secure Digital (SD) cards or similar media, the unopened raw recorded material of the interrogation/interview contained on the SD card shall be down-loaded and saved in a protected format on the server or hard drive. This protected file(s) on the server or hard drive shall then serve as the master recording. Once the unedited master copy is made, the SD card may be reused. All electronic files shall be labeled according to department procedure. Additional copies of the recording can be made for provision to the District Attorney’s Office for future prosecution, and for other purposes in accordance with the provisions of this procedure.

3. PROTECTION OF ORIGINAL RECORDING: Recordings made using equipment that creates segmented “chapters” shall be saved in the master file as created. These chapters files may then be combined to create one complete recording of the interrogation; however the original chapters must be preserved as the master file. Copies may be saved in other formats to enable the prosecutor to create shorter segments for presentation, and for other authorized purposes. The master recording will be preserved as the authoritative original in the event a dispute should arise as to authenticity of any copies.

B. WRITTEN SUPPORT STATEMENT REQUIRED  As part of the Supplemental/Investigative report members will indicate the interrogation was conducted in compliance with departmental procedure.

C. PRESERVATION OF RECORDING/DISCOVERY REQUESTS

1. No person shall alter the original electronic recording media.

2. Dissemination of recorded media outside of the Department is prohibited unless specifically authorized by the Chief of Police. Requests for additional copies of recordings by defense counsel or other counsel will be subject to the approval of the District Attorney’s Office pursuant to Pa.R.Crim.P.573 or other applicable authority.

3. CHAIN OF CUSTODY: To ensure a proper chain of custody, members will adhere to departmental evidence procedures.

4. RETENTION: Every electronic recording made under this practice must be preserved until such time as the defendant's conviction for any offense relating to the statement is final and all direct, post-conviction and federal habeas corpus appeals are exhausted. Electronic recordings shall not be destroyed, unless authorized by the Chief of Police and the district attorney pursuant to an Order of Court.
a. Members seeking to view electronic recordings who are not involved with the case must submit a request to the Chief of Police.

b. Members seeking to view and/or use electronic recordings for training purposes must submit a request to the Chief of Police for approval.

c. Any electronic recording of any statement made by an accused during a custodial interrogation required by this procedure shall be confidential and exempt from public inspection and copying. The information shall not be transmitted to anyone except as needed to comply with this procedure.

D. MAINTENANCE OF EQUIPMENT:

The Chief’s designee will:

1. Be responsible for maintaining the electronic recording equipment and will ensure that there is an adequate supply of recording media at all times.

2. Routinely clean the equipment according to the manufacturer’s guidelines.

3. In the event the equipment requires service or repair, notify the Chief of Police promptly.

E. RELEASE OF RECORDINGS: Any potential evidence or evidence introduced in a court proceeding prior to trial in a criminal matter shall not be released to the public or media by any law enforcement agency without an Order of Court.

Approved By:

______________________________
Chief of Police
Attachment A
Form may be used on your department letterhead

POLICE DEPARTMENT

MIRANDA RIGHTS WARNING

PLACE

DATE & TIME

(1) You have the right to remain silent.
(2) Anything you say can and will be used against you in a court of law.
(3) You have the right to talk to an attorney and have him/her present with you while you are being questioned.
(4) If you cannot afford to hire an attorney, one will be appointed to represent you free of charge before any questioning, if you wish.
(5) You can decide at any time to exercise these rights and not answer any questions or make any statements.

WAIVER

I am not unduly under the influence of drugs and/or alcohol.
I am making this waiver voluntarily and without threats, pressures, coercion or promises of any kind being made to me.
I am aware this interview is being recorded.

I understand my rights.

Signature

I certify the above statements were read to before he/she was questioned.

Police Officer

Police Officer
Attachment B

Overview & Checklist

This recording requirement does not extend to any preliminary discussions with the subject before the administration of Miranda warnings and actual interrogation begins.

Advise the suspect (while pointing to the camera) that “while we are in this room an audio-video camera is running”.

If the subject refuses you do not need consent for video recording.

Record the entire custodial interrogation, from the Miranda warning to the conclusion of the interrogation.

Any and all reasons for a break in the recording during this period must be memorialized on the recording and in the written report.

Custodial interrogations and confessions must be recorded unless the subject refuses or one of the articulable exceptions applies.

Interviews may also be recorded, in part or in whole.

IF AN ATTORNEY IS PRESENT: If the suspect invokes the right to counsel and the attorney elects to confer privately with the subject, advise the attorney of the use of recording equipment, and offer: to deactivate the audio, or to provide an alternate room for the conference, or to turn off the recording equipment during the conference between the attorney and the subject. If there is an interruption in the recording in order to accommodate the subject and attorney, note the date and time prior to stopping the equipment and again re-state the date and time when the equipment is again turned on.

JUVENILE PARENT/INTERESTED ADULT: All interviews of juvenile suspects shall include the consent for the recording from both the juvenile and the interested adult who is present. A juvenile suspect may be interrogated when he/she waived his/her Miranda rights without the presence of an interested adult as Pennsylvania no longer recognizes a per se rule that a juvenile is incompetent to waive Constitutional rights without consultation with an interested adult. However, the absence of the juvenile’s right to confer with an interested adult will be viewed as an important factor among the totality of the circumstances for determining whether a waiver is voluntary.
☐ **AUDIO RECORDING:** Advise the suspect (while pointing to the camera) that “while we are in this room an audio-video camera is running”.

☐ If the subject indicates that he/she does not want to be audio recorded, advise the subject that you will turn off the audio portion. Turn off the audio portion and continue to video record.

☐ **MIRANDA WARNINGS:** Give the Miranda warnings and have the subject sign a waiver form (Appendix A).

☐ **IDENTIFICATION OF PARTIES:** Identify all persons within the interrogation room on the recording.

☐ **TIME AUTHENTICATION:** State the date and time at the onset of the interrogation, and again at the conclusion of the interrogation.

☐ **DEACTIVATION:** Deactivate the recording equipment immediately upon the exit of all parties from the interview room upon the conclusion of the interrogation session.

☐ **WRITTEN STATEMENTS:** Barring electronic recording, attempt to obtain a written statement or have the suspect sign and date the investigator’s notes.

☐ **PREPARATION OF REPORT:** Complete a Supplemental/Investigative Report, indicating that an electronic recording was made or was not made of a custodial interrogation.

☐ **INTEGRITY OF RECORDINGS:** Label all applicable documents and/or recorded media according to department procedure.
This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.

**ACCPA-CJAB-DA**

**MODEL COURT APPEARANCE POLICY**

**01. PURPOSE**
The purpose of this policy is to provide all Officers of the Department with general guidelines governing their responsibilities to comply with Judicial Subpoenas and District Court Notifications or if they are required to appear as a defendant or as a witness for a defendant in a criminal or civil court proceeding or who may be requested or required to give statements to investigators or counsel representing private litigants in actions or potential actions in which the Department, Municipality or the Officer may be a party to the litigation.

**02. REPORTING FOR DUTY**
Officers shall report for duty at the time and place required by assignment or orders and shall be physically and mentally fit to perform their duties.

Judicial Subpoenas and District Court notifications shall constitute an order to report for duty under this section.

*It is imperative that you review BWC/MVR/Camera footage to refresh your recollection of the events for the narrative in the initial affidavit/report.*

Officers shall be prepared to testify and be cross-examined. Prior to a hearing or court appearance, review reports, witness statements, BWC/MVR/Camera footage and your case file.

**03. DRESS**
When appearing at any hearing, civil or criminal proceeding, Officers shall be neat and well groomed.

When appearing at a pretrial conference, traffic or other hearing, members may be attired in the uniform of the day or attired in business causal.

When appearing at criminal, civil or juvenile court, if not in the uniform of the day, the following forms of attire in subdued colors and/or patterns suitable for the business environment are authorized:

**MALE PERSONNEL**
1. Clean pressed suit, dress shirt and tie.
2. Clean pressed dress trousers or “Docker” type trousers and sports jacket with dress shirt and tie.
3. Full shoes with socks.
4. All footwear shall be well maintained, clean, appropriately polished and presentable.

**FEMALE PERSONNEL**
1. Clean pressed business suit, dress pants, “Docker” type pants, skirt or dress.
2. Clean pressed dress blouse, appropriate top or dress sweater.
3. All footwear shall be well maintained, clean, appropriately polished and presentable.
04. **PROHIBITED CLOTHING:**
Officers required to appear at hearing/court appearances shall not wear any clothing which is worn, torn, ripped, dirty, stained, disheveled or too large, wrinkled and/or ill-fitting suit/sports jacket, and/or trousers, leather pants, lycra/spandex pants or leggings, beach attire, T-Shirts, sweatshirts, sweatpants, tank tops, muscle shirts, cargo pants/shorts, any shirt with words, terms, obtrusive or offensive logos, pictures, cartoons or slogans, exercise clothing, denim blue jeans or skirts, overalls, camouflage attire, crop-tops, halter tops, tops which expose the midriff, see-through blouses, slacks or skirts, spaghetti strap tops or dresses unless worn under another blouse, shirt, jacket or jumper, tops with bare shoulders, extremely low cut tops, shorts, extremely short skirts or dresses (shorter than 3” above the knee), any clothing that is inappropriately short, tight, provocative or revealing, including but not limited to clothing which reveals too much cleavage, your back, your chest, your stomach, your thighs or your underwear, flip-flops, shower shoes, bedroom slippers, or any unauthorized athletic type shoes.

05. **COURT POSTPONEMENTS**
If an Officer is unable to appear in Criminal Court, attend a Preliminary Hearing, Traffic or Summary Offense Hearing because of illness or an extreme emergency, it is the Officer’s responsibility to contact the District Attorney’s Office or District Court and the Chief or D/Chief and advise them of such, as early as possible.

06. **WITNESS**
Officers shall not testify in a civil case in which the Department may have an interest without prior approval of the Chief of Police, unless they have been legally summoned to do so, in which case the Chief shall be notified in writing as soon as notification is received.

07. **APPEARANCE AS A CHARACTER WITNESS**
As a general rule, Officers will not appear as a character witness in a criminal proceeding and shall only be permitted to do so if prior written authorization has been obtained from the Chief of Police.

Officers who have been contacted, requested, summoned or subpoenaed to appear as a witness for a defendant in a criminal court proceeding or any party to a civil proceeding shall, as soon as notification is received from the defendant’s attorney or requesting party, notify the Chief of Police in writing of such.

08. **INTERVENTION IN ARREST OR PROSECUTION**
Officers shall not intervene or interfere in any lawful investigation, arrest or prosecution brought by another Officer of the Department, or by any other agency or person.

09. **ASSISTING SUSPECTS OR CRIMINALS**
Officers shall not intentionally divulge in any manner, either directly or indirectly, any information which might assist persons suspected or guilty of criminal acts in escaping arrest or punishment, or which may enable them to dispose of or secrete money, merchandise, or other property unlawfully obtained, or other evidence of illegal activity.
Officers shall not suggest, recommend, advise or otherwise counsel any person with whom they become acquainted as a result of Police business, with regard to the retention of any attorney or bail bond broker. This restriction shall not apply to relatives of Officers.

Officers shall not act as bailers for anyone, with the exception of family members of said Officer.

10. **CIVIL ACTIONS**
Officers shall not testify in a civil action, regarding any Department case, unless served with a legal subpoena or unless the Officer is the plaintiff or the defendant. Officers shall not enter into a financial agreement regarding appearances as witnesses.

Officers named as a defendant and Officers named as a witness against another Officer in duty-related civil litigation or any other litigation against the Department or Municipality and served with a subpoena, shall immediately notify the Chief of Department in writing, stating the fact that the subpoena was served, the method of service, and the date of service. A copy of the civil service or subpoena shall be attached to the memorandum.

Officers shall confer with the Chief of Police prior to filing a deposition or affidavit in a civil case resulting from the performance of duty. The Chief shall be advised regarding the case prior to the deposition.

No Officer shall provide statements to Investigators or Counsel representing private litigants in actions or potential actions in which the Department or Municipality may be a party without first notifying the Chief of Police of such in writing.

Any time an Officer is requested or required to give such a statement, the Officer shall, as soon as the request is made by the Investigators or Counsel, notify the Chief of Police in writing of the request and all pertinent information.

Officers shall not seek, file suit against, solicit, nor accept from any person or agency any money or other compensation for damages or expenses incurred in the line of duty, or for which the Officer has received sick leave pay, without previously notifying the Chief of Police in writing of the intended course of action. Such notification shall also occur upon the final disposition of any suit in which an Officer is awarded compensation for damages of expenses incurred in the line of duty.

11. **OUTSIDE AGENCY**
Any Officer who is contacted by any outside agency shall immediately notify the Chief of Police prior to making any statement or being interviewed.

12. **COURT APPEARANCES**
Officers shall not attend any court in any jurisdiction (criminal or civil) for the purpose of testifying, or appearing as a defendant, attired in Department issued equipment/clothing, if the purpose of their attendance does not relate to acts which occurred during the performance of official duties.
The Allegheny County Chiefs of Police Association

BRADY-GIGLIO DISCLOSURE REQUIREMENTS

MODEL POLICY

An Allegheny County Criminal Justice Advisory Board Project

In Partnership With

The Allegheny County District Attorney’s Office

2020
Summary of Model Brady-Giglio Disclosure Requirements Policy

The Allegheny County Chiefs of Police Association in partnership with the Allegheny County District Attorney’s Office periodically creates and distributes model policies and forms for a variety of topics of interest to our Members. These model policies are for the use of any law enforcement agency in need of sample policies, whether or not a member of our Association. We encourage agencies to tailor policies for their own needs and circumstances, so we view these policies as a logical starting point for agencies which are creating new policies or reviewing existing policies. We endeavor to make available which set forth “best current practices”, but we do not attempt to impose upon any agency any specific policies in whole or in part. To best serve your department, any changes to your existing policies should be reviewed by you, your municipality, and its insurance carrier to coincide with department size, population density and other unique characteristics of your community before being implemented.

Earlier this year, District Attorney Zappala requested the Allegheny County Chiefs of Police Association partner with his office and the Allegheny County Criminal Justice Advisory Board in an effort to develop a best practices model policy with guidelines necessary to fulfill the reporting and testimonial requirements mandated under United States Supreme Court decisions involving exculpatory material and/or evidence.

We all agree that protecting the constitutional rights of all is paramount. In developing this policy we also considered concerns regarding the rights of police officers, privacy of personnel file material, CHRIA requirements, and Right to Know Law requirements. We reviewed the model policy developed by the Pennsylvania District Attorneys Association, which contains provisions regarding development of Do Not Use Lists or Disclosures Lists and notification of officers and their supervisors of the status of any officers subject to such lists. We also reviewed policies developed by other agencies as well as relevant case law.

As a result, attached for your review and consideration is a Model Brady-Giglio Policy. It is intended to provide members with guidelines necessary to fulfill the reporting and testimonial requirements mandated under United States Supreme Court decisions including Brady v. Maryland 373 U.S. 83 (1963) and Giglio v. U.S. 405 U.S. 150 (1972).

The Brady-Giglio decisions and subsequent rulings have made it the responsibility of all law enforcement agencies to:

1. Identify and provide to the prosecution any exculpatory material that would have a reasonable probability of altering the results in a trial, or any material that could reasonably mitigate the sentencing of a defendant and
2. Any material relevant to the credibility of government witnesses, including, but not limited to, police officers.
ACCPA-ACDA-CJAB
BRADY-GIGLIO DISCLOSURE REQUIREMENTS
Model Policy

The Allegheny County Chiefs of Police Association in partnership with the Allegheny County District Attorney’s Office and the Allegheny County Criminal Justice Advisory Board periodically creates and distributes model policies and forms for a variety of topics of interest to our Officers. These model policies are for the use of any law enforcement agency in need of sample policies, whether or not a member of our Association. We encourage agencies to tailor policies for their own needs and circumstances, so we view these policies as a logical starting point for agencies which are creating new policies or reviewing existing policies. We endeavor to make available which set forth “best current practices”, but we do not attempt to impose upon any agency any specific policies in whole or in part. To best serve your department, any changes to your existing Brady-Giglio Policy should be reviewed by you, your municipality, and its insurance carrier before being implemented.

I. LEGAL BACKGROUND–United States Supreme Court Opinions:

*Brady v. Maryland* (1963). Prosecutors must disclose to the accused any exculpatory evidence, that is all favorable evidence that is “material” to the accused’s guilt or his punishment.

*Giglio v. U.S.* (1972). Exculpatory evidence also includes information that could be used to impeach the credibility of prosecution witnesses, including officers.

*U.S. v. Augurs* (1976). Exculpatory evidence must be disclosed regardless of whether the defense requests it.

*U.S. v. Bagley* (1985). Exculpatory evidence is “material” only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A “reasonable probability” is a probability sufficient to undermine confidence in the outcome.

*Kyles v. Whitley* (1995). Prosecutors have an affirmative duty to learn of, and disclose, any exculpatory evidence known to “others acting on the government’s behalf in the case, including the police.”

These court cases and requirements extend to the members of this Department who may be required to testify in criminal proceedings as part of their duties.

Because prosecutors have an affirmative duty to seek out and disclose exculpatory evidence, including evidence known to law enforcement, law enforcement has a duty to collect it and turn it over to the prosecutor. Failure to do so is a constitutional violation, which may result in dismissal of cases; reversal of convictions; findings of contempt of court against prosecutors or police; imposition of costs incurred by the defense; civil liability for officers and their agencies under federal civil rights claims; and disciplinary actions against prosecutors and police officers.

II. PURPOSE

The purpose of this policy to provide members with guidelines necessary to fulfill the reporting and testimonial requirements mandated under U.S. Supreme Court decisions including *Brady v. Maryland* 373 U.S. 83 (1963) and *Giglio v. U.S.* 405 U.S. 150 (1972).
The Brady-Giglio decisions and subsequent rulings have made it the responsibility of all law enforcement agencies to (a) Identify and provide to the prosecution any exculpatory material that would have a reasonable probability of altering the results in a trial, or any material that could reasonably mitigate the sentencing of a defendant and (b) Any material relevant to the credibility of government witnesses, including, but not limited to, police officers.

III. DEFINITIONS

Exculpatory evidence: Evidence that is favorable to the accused; is material to the guilt, innocence, or punishment of the accused; and that may impact the credibility of a government witness, including a police officer.

Impeachment material: Information that could be used to impeach the credibility of prosecution witnesses, including police officers.

Material evidence: Exculpatory evidence is “material” if there is a reasonable probability that disclosing it will change the outcome of a criminal proceeding. A “reasonable probability” is a probability sufficient to undermine confidence in the outcome of the trial or sentencing of a criminal case.

Duty to disclose: The affirmative constitutional duty of the police to notify the prosecutor of any Brady-Giglio material.

Brady-Giglio Information: Any “exculpatory evidence”; any “impeachment material”; and any “material evidence”.

Examples of Brady-Giglio material that may be subject to disclosure include, but may not be limited to the following:

a. Information that would directly negate the defendant’s guilt concerning any count in an arrest/indictment;
b. Information that would cast doubt on the admissibility of evidence that the government plans to offer that could be subject to a motion to suppress or exclude;
c. Any criminal record or criminal case pending against any witness whom the prosecution anticipates calling;
d. The failure of any proposed witness to make a positive identification of a defendant;
e. Information that casts doubt on the credibility or accuracy of a witness or evidence;
f. An inconsistent statement made orally or in writing by any proposed witness;
g. Statements made orally or in writing by any person that are inconsistent with any statement of a proposed government witness regarding the alleged criminal conduct of the defendant;
h. Information regarding any mental or physical impairment of any governmental witness that would cast doubt on his or her ability to testify accurately and truthfully at trial;
i. Information that tends to diminish the degree of the defendant’s culpability or the defendant's offense level under state or federal sentencing guidelines; and
j. Evidence that a proposed witness has a racial, religious, or personal bias against a defendant individually or as a member of a group.

Examples of Brady-Giglio Information specific to law enforcement witnesses include but are not limited to:

k. Any department-sustained finding of misconduct related to truthfulness or dishonesty;
l. Any present allegations of misconduct under investigation involving truthfulness or dishonesty;
m. Misconduct that is relevant to a prosecution or investigation and negatively affects the integrity of a prosecution or investigation;
n. Pending criminal charges or a conviction that would result in loss of law enforcement privileges in Pennsylvania; and
o. Bias or prejudice toward any constitutionally protected group.

IV. POLICY

It is the policy of this department to follow Brady-Giglio disclosure requirements consistent with the law. The Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness, including but not limited to, police officers. Members shall not knowingly make an untrue statement in any oral or written communication, official or unofficial report.

V. DISCLOSURE OF INVESTIGATIVE INFORMATION

Members must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If a member learns of potentially incriminating or exculpatory information any time after submission of a case, the member or the assigned investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor’s office. If evidence is discovered after a trial is over, there is a continuing duty to disclose such to the prosecutor’s office.

If information is believed to be privileged or confidential (e.g., informant or protected personnel files), the member should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If a member is unsure, the member should address the issue with a supervisor.
Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained but not in the department case file.

It is the prosecutor’s responsibility to establish whether material disclosed by this department must be provided to the defense.

Suppression of evidence favorable to an accused violates due process when the evidence is material either to guilt or to punishment, irrespective of good or bad faith. There is no distinction between “impeachment evidence” and “exculpatory evidence” for Brady-Giglio disclosure purposes.

Allegations that cannot be substantiated, are not credible, or have resulted in an individual’s exoneration are generally not considered to be potential impeachment information.

VI.  **BRADY PROCESS**

The Chief of Police shall select a member of the Department to coordinate requests for Brady-Giglio information. This person shall be directly responsible to the Chief of Police or the authorized designee.

The responsibilities of the coordinator include, but are not limited to:

a. Working with the appropriate prosecutors’ offices and the Municipal Solicitor to establish systems and processes to determine what constitutes Brady-Giglio information and the method for notification and disclosure;

b. Maintaining a current list of members who have Brady-Giglio information in their files or backgrounds; and

c. Updating this list whenever potential Brady-Giglio information concerning any department member becomes known to the Department or is placed into a personnel or internal affairs file.

VII. **DISCLOSURE OF REQUESTED INFORMATION**

Information in member personnel files that are related to Brady-Giglio matters may be provided or open to the prosecution or defense as part of a Brady-Giglio disclosure requirement.

If Brady-Giglio information is located, the following procedure shall apply:

a. In the event that a motion has not already been filed by the criminal defendant or other party, the prosecuting attorney and department member whose file is related to the motion shall be notified of the potential presence of Brady-Giglio information.

b. The prosecuting attorney or Municipal Solicitor should be requested to file a motion in order to initiate an in camera review by the court.

c. If no motion is filed, the Chief of Police or his or her designee should work with the appropriate counsel to determine whether the records should be disclosed to the prosecutor.
d. The Chief of Police or his or her designee shall accompany all relevant personnel files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.

e. If the court determines that there is relevant Brady-Giglio information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.

f. Prior to the release of any information pursuant to this process, a protective order should be requested from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

g. If a court has determined that relevant Brady-Giglio information is contained in a member’s file in any case, the prosecutor should be notified of that fact in all future cases involving that member.

VIII. INVESTIGATING BRADY-GIGLIO ISSUES

If the Department receives information from any source that a member may have issues of credibility or dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with Department Policy.

The Chief or his or her designee shall promptly disclose to the appropriate federal, state or county prosecutors potential Brady-Giglio information relating to a member that is the affiant or may be called as a witness in a hearing or case.

The member involved shall be notified that the material will be disclosed to the prosecutors by the Chief of Police or his designee. It will then be the duty of the prosecutor to determine whether the information should be provided to the defense or reviewed by the judge presiding over a matter.

In the event a member believes that a prosecutor is unaware of information that may be considered Brady-Giglio material, that member will notify their supervisor and/or the prosecutor of the existence of the information sufficiently in advance of their presentation or testimony at the hearing so that a decision regarding disclosure of the information can be made by the prosecutor.

IX. SUBPOENA PROCESSING

The individual processing subpoenas (or the Chief of Police) shall check the subpoenaed member’s name against the current list of those who are known to have Brady-Giglio information in their files or background, and shall alert the coordinator if a person on the list is subpoenaed.

X. TRAINING

The requirements of this policy will be reviewed periodically with Department personnel.

XI. RECORDS RETENTION

Requirements for retention of any records of potential Brady-Giglio information will be based on state and federal requirements.
Off-Duty Action
MODEL Policy

An Allegheny County Criminal Justice Advisory Board Project
Initial issue 2016, reissued 2021

In Partnership With
The Allegheny County District Attorney’s Office

2021-MARCH
This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.

ACCPA-CJAB-ACDA
Off-Duty Action MODEL Policy

01 Purpose:

The purpose of this model policy is to provide all Officers of with general guidelines on the carrying of firearms off duty, response to criminal activity while off duty and other possible related activity.

A. Members may carry a firearm while off-duty in accordance with state and federal law. It is not necessary that a member, who chooses to carry a firearm off-duty, carry his/her primary service weapon, however, any firearm that an Officer chooses to carry must be approved by the Department Rangemaster and/or Chief of Police, and said Officer must be qualified with the firearm.

B. Officers are prohibited from carrying or handling a firearm if they have used alcohol, medications or controlled substances to the point where they are unable to exercise reasonable care and control of the firearm.

C. Officers should refrain from carrying a firearm under other circumstances where the need to carry a firearm is outweighed by safety issues associated with the situation(s) that the Officer will be undertaking (Common sense should apply).

D. A Officer who becomes aware of an incident which poses a threat of serious bodily injury or death to an individual shall take “action” to minimize the risk of serious bodily injury or death.

E. “Action” under subsection C (above) DOES NOT require the Officer to place him/herself in a position of peril. The most reasonable and prudent course of “Action” may be to monitor the situation and contact Police/911 with detailed information.

02. Policy:

A. First, if possible get to a safe location and call Police/911.

B. Second, if you encounter a situation off-duty that seems to require immediate police action, you should consciously evaluate whether your involvement is necessary and reasonable, given the circumstances and information available.

C. A number of circumstances may affect your decision to get involved in any situation. First, you may be alone, with family members or other non-police personnel. Second, it is unlikely that you will have all of the necessary police equipment while off-duty, for example; OC
spray, baton, handcuffs, a firearm or extra ammo. You may be faced with multiple suspects or unaware of hidden suspects. There may also be tactical or environmental factors working against you, such as lack of cover, innocent civilians, darkness, etc. Your intervention may actually cause an escalation of violence. Therefore, your best plan of action may be to:

1. Be a **great witness**, gather/relay as much accurate intelligence/information as you can until on-duty police arrive.

2. Remember, there is no legal or departmental obligation to become **physically** involved, especially if such intervention requires that you behave in recklessly or carelessly manner.

3. While department policy mandates that you “take action” when witnessing a serious crime, that obligation can be fulfilled by calling Police/911 and monitoring the situation from a **SAFE** vantage point (Section 01, subsection D).

4. Most Law Enforcement Trainers suggest **NOT** to intervene off-duty **UNLESS** your life or the life of another innocent party is **IMMINENTLY** in danger. In other words, you should only consider intervention when deadly force would be justified. You should not intervene just to make an arrest while off-duty. The decision to take action, beyond simply monitoring and reporting to Police/911, is a personal one and is not a requirement of this department.

5. If you decide you must get involved, attempt to have someone call Police/911, advising the operator that an off-duty officer is on scene. Have the caller inform the operator if you are armed. If possible, have them describe you and your clothing. This will help affect the mindset of the responding officers. When uniformed police officers arrive, have your badge out and visible (if you carry your badge while off-duty, some officers chose to carry only their photo credentials). Do not rely on showing your identification as a means of providing any protection. Remember, at a distance, in dim light and under stress, your badge **may not** be seen. Or, the identification may not be given credibility if the responding officers do not recognize you personally (If Use of Force is necessary, Department Use of Force Guidelines apply).

6. Some Law Enforcement Trainers suggest officers hold their badge next to their gun for the best chance of being seen because the eyes of the responding officers are most likely to go immediately to your drawn firearm. It may be safer to **RE-HOLSTER** your gun when other officers arrive, unless doing so would put you and the responding officers or innocent civilians, in jeopardy. Until the responding officers sort out who is who, your gun may be your greatest personal liability.

7. If you have cover, maintain it. You can communicate verbally from there.

8. Make your hands visible. Having responding officers see that you are unarmed and non-threatening will work to calm them and protect you.

9. **Verbally identify yourself as a police officer—not once and not in a normal tone of voice, but repeatedly and very loud.**
“POLICE OFFICER! DON’T SHOOT! OFF-DUTY POLICE OFFICER!”
until you get acknowledgment and directions as to what you should do.
Remember, the noise and excitement of the scene, combined with stress induced auditory
blocking may prevent responding officers from hearing you initially.

10. When commands are issued by the responding officers,

FOLLOW THEM PROMPTLY AND COMPLETELY.
DO AS YOU ARE TOLD.

Expect to be treated like a suspect until your law enforcement status is verified.

11. Most importantly, if you have a gun in your hand,

DO NOT turn toward a responding on-duty officer.

12. If needed assist responding officers with any arrest(s).

13. When carrying a firearm off-duty it should be concealed from public view.

03. Reporting:

1. Whenever an Officer becomes involved in an incident while in an off-duty capacity,
he/she shall notify the A/Chief as soon as possible and complete a written report on the
incident that will be forwarded to the Chief of Officers.
In Partnership With
The Allegheny County District Attorney’s Office

MARCH-2021
This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.

01. PURPOSE

The purpose of this policy is to provide all Members of the Department with guidelines on the responsible and productive use of Department Information Technology and possible related activity including internet and social media use. Changes in technology, law and procedure may give rise to future modifications and updates. Any departure from this policy is only permitted with approval from the Chief or D/Chief.

02. ELECTRONIC MAIL

a. The electronic mail system @sample police.pa.us is the property of the Department and intended for official use only.

b. All messages composed, sent or received on the electronic mail system are and remain the property of the Department. They are not the private property of any employee. All users of the electronic mail system, by virtue of their use of the system, waive any right of or expectation to privacy to all electronic mail communications and attachments sent or received. The Department reserves the right to review, audit, intercept and access all messages created, received or sent over the electronic mail system for any purpose.

c. Any communication by electronic mail should be drafted with the same care as a formal memorandum and should not contain insensitive or off color remarks that might potentially be embarrassing to the sender, the receiver, the Department or the public.

d. The electronic mail system shall not be used to create any offensive or disruptive messages. Among those which are considered offensive are any messages which contain sexual implications, racial slurs, gender-specific comments or any other comment that offensively addresses someone’s age, weight, sexual orientation, religious or political beliefs, national origin or disability.

e. Pornography or any material (visual or sound) that could reasonably deemed to be offensive under the Department Policy Prohibiting Unlawful Harassment shall not be stored or accessed via any portion of the Department Information Technology Systems. Access to web sites, newsgroups, chat rooms, and e-mail containing these materials is also prohibited.

Exception: Members involved in criminal investigations involving computer crimes that require access to such sites must notify the Chief or D/Chief.

f. If an email containing material prohibited under this policy is received, delete it. If the sender is known, advise that sender to not send similar material again. If the Sender is unknown, click on the Junk button and select BLOCK SENDER. If you should continue to receive inappropriate emails from the Sender, notify the Chief or D/Chief.

g. The electronic mail system shall not be used to solicit for commercial ventures, religious or political causes or outside organizations.
h. As noted above, the electronic mail system shall be used for official business purposes only. Occasional personal use of the department’s computers may be permitted, but the department may, at any time, monitor or restrict such personal use. Again, employees shall not have any expectation of privacy with respect to personal information stored or accessed on Department computers or computer storage medium, such as hard drives, flash drives, discs, compact discs, etc. Employees taking advantage of this occasional personal use of the Department’s computers shall limit their time spent doing so, and shall not be derelict in their normal job responsibilities.

i. The electronic mail system does not guarantee privacy or confidentiality. Electronic mail may be at risk of detection by third parties or subjected to Right To Know (RTK) requests. Employees should use discretion when transmitting confidential information via electronic mail.

j. The confidentiality of any message should not be assumed. Even when a message is erased, it is still possible to retrieve and read that message. Further, the use of passwords for security does not guarantee confidentiality.

k. All material generated by computer, voice mail, e-mail, and all inter Department communication should be treated as confidential by other employees and accessed only by the intended recipient.

l. Unauthorized access or entry into any other employee’s computer, email and files is strictly prohibited.

03. **INTERNET USAGE**

a. Internet access to global electronic information resources on the Internet is provided by the Department to assist employees in obtaining work-related data and technology. Users must remember that all activities from a Department internet account will be perceived as activities authorized by the Department.

b. Internet access through Department equipment during working hours should be limited to official business purposes. Occasional access to the internet for personal use may be permitted but the Department may, at any time, monitor or restrict such personal use. Employees who choose to take advantage of this occasional personal use of the internet also waive any right of or expectation to privacy. Employees taking advantage of this occasional personal use of the internet shall limit their time spent doing so, and shall not be derelict in their normal job responsibilities.

c. Internet access through official equipment, after working hours, is permitted but shall adhere to the Internet content guidelines of this policy.

d. Internet use is prohibited for sites containing adult content, hate speech, criminal activity, violence, illegal drugs and hacking. Access to these sites for investigative purposes can be granted with approval from the Chief or D/Chief. Use on Internet access through Department equipment for any
illegal purpose is prohibited. These prohibited categories may be modified at any time with notice from the Chief or D/Chief.

e. Users shall not view, download, copy, send, post, or access information that is illegal or obscene.

f. Employees must ensure that the use of the internet does not compromise the security and integrity of the Department network. Downloading unapproved files (ex. MP3’s) and software is strictly prohibited without approval from the Chief or D/Chief.

g. Employees shall not post any messages which contain abusive or objectionable language, defame, libel or infringe on the privacy rights of others.

h. The Internet does not guarantee privacy or confidentiality. Information transmitted over the internet may be at risk of detection by third parties. Employees should use discretion when transmitting confidential information on the internet.

i. The Department reserves the right to monitor internet usage, and inspect employee’s computer systems for violation of this policy.

j. An alternate internet connection on any Department system is expressly prohibited without prior approval from the Chief or D/Chief.

k. This Department reserves the right to block an employee’s internet usage due to violations of this policy.

04. SOCIAL MEDIA

a. Social media activity and speech as private citizens relating to matters of a public concern are First Amendment protected forms of speech. However, by virtue of the position, Members of the Department are held to a higher standard than general members of the public, and any online activities should reflect such professional expectations and standards. Members are free to express themselves as private citizens on social media sites to the degree that their speech and/or language does not impair working relationships of the Department, impede the performance of duties, impair discipline and harmony among coworkers, or negatively affect the public’s trust and/or confidence in the Department. Members may be subject to disciplinary action for conduct unbecoming an officer, intemperance, or immorality for off-duty actions.

b. Members should be cognizant of the fact that their social media activity, even on personal social media accounts, may be seen by the public as a statement on behalf of the Department. Any activity that can be linked to a member is a reflection of the Department as a whole.

c. Members are accountable for their conduct, including the use of personal social media accounts. Members should be aware that statements made on social media sites are done so in an online domain where no reasonable expectation of privacy exists. Members creating or belonging to “private” or “limited access” accounts, with customized privacy settings must know that any statements, posts, videos, photographs, etc., that are shared via that account on
the internet, may still be disseminated by third parties, even after the content has been edited or deleted by the user.

d. Members must be aware that information, including digital images, released on social media, may endanger the safety of members and/or their family members.

e. Members are cautioned that as public employees speech made pursuant to their official duties, whether on or off duty, is not protected under the First Amendment and may be subject to discipline if it is deemed detrimental to the Department. The on and off-duty conduct of members may reflect on the Department’s reputation.

f. Members are prohibited from using any social media or social networking platform accessed through Department Information Technology while on duty, unless permission is granted from the Chief or D/Chief for investigative or public information purposes. Members are prohibited from using any social media or social networking platform accessed through personal devices other than Department Information Technology while on duty, unless permission is granted from the Chief or D/Chief for investigative or public information purposes.

g. Unless granted explicit permission from the Chief or D/Chief, Members are prohibited from posting either while on duty or off duty, any of the following on any social networking platform, either on their own sites, the sites of others known to them, the sites of others unknown to them, news media pages, or other information exchange forums:

1. Any text, photograph, audio, video, or any other multimedia file related to any investigation, both current and past, of this Department.

2. Any text, photograph, audio, video, or any other multimedia file related to any past or current action of this Department, either in homage or critique.

3. Logos, badges, seals, uniforms, vehicles, equipment or any item or symbol that is affiliated with this Department.

4. Any item, symbol, number, or likeness or material that is identifiable to this Department.

5. Any text, photograph, audio, video, or any other multimedia file that is related to any investigation/prosecution by the Department.

h. Members who choose to maintain or participate in social media or social networking platforms while off duty shall conduct themselves with professionalism and in such a manner that will not reflect negatively upon the Department or its’ mission. In the course of operating or participating in such forums, the following rules shall apply:

1. Unless explicitly granted permission by the Chief or D/Chief, Members shall not identify themselves, in any way, directly or indirectly as an employee of this Department.

2. Members shall not use any reference to infer they are employees of this Department.
3. Members will be held responsible for the content that appears on their maintained social media or social networking sites and will be obligated to remove any posting or material contributed by others that identifies the Member as an employee of the Department, or reflects negatively upon the Department or its mission.

4. Sexually graphic or explicit material of any kind shall not be posted or shared by Members on any form of social media or social networking site. Any posting or material of such contributed by others shall be immediately removed from your site.

5. Any content involving discourteous or disrespectful remarks pertaining to issues of ethnicity, race, religion, gender, gender identity/expression, sexual orientation, and/or disability shall not be posted or shared by Members on any form of social media or social networking site. Any posting or material of such contributed by others shall be immediately removed from your site.

6. Members shall not post, transmit, share, and/or disseminate any content advocating harassment or violence. Any posting or material of such contributed by others shall be immediately removed from your site.

7. Weaponry, owned by this Department and/or owned personally or privately by Members shall not be displayed or referred to, in any social media forum if such displays or depictions promote or glorify violence.

8. Members shall not post, transmit, share, and/or disseminate any content that is defamatory, pornographic, proprietary, harassing, or libelous. Any posting or material of such contributed by others shall be immediately removed from your site.

9. Members shall not engage in any type of social media contact (friending, following, etc.) with an actor, suspect, witness, crime victim, or attorney, involved in the same case, if that Officer was either involved in the incident, or the Officer became acquainted with person during or because of the incident, and the matter is ongoing.

10. Members shall not engage in any type of social media contact (friending, following, etc.) with minors they interact with in the course of their employment with the Department.

11. Any posting that detracts from the Department's mission will be considered a direct violation of this policy.

   i. Unless serving as an explicitly permitted tool of public information or community outreach, no Member shall use their rank and/or title in any social media or social networking activity, including inclusion of said rank and/or title into the Member's online identity or avatar.

**05 Definitions**

**Social Media:** a variety of online internet sources that allow people to communicate, share information, share photos, share videos, share audio and exchange text and other multimedia files with others via some form of online or cellular network platform.
Social Networking: using or creating such Internet or mobile formats including but not limited to Facebook, Twitter, MySpace, LinkedIn, Foursquare, Gowalla Police Pulse, The Squad Room, Usenet groups, Snapchat, online forums, message boards or bulletin boards, blogs and other similarly developed formats, to communicate with others using the same sites.

Mobile Social Networkings: social networking using a mobile phone or other cellular based device.

Blog: a series of entries on an internet site, written by either one person or a group of people, in an online journal usually posted in chronological order, like a diary. Blogs can allow comments on entries or not.

Blogging: to read, write or edit a shared online journal. Blogging can also encompass the act of commenting-and engaging with other commenters - on any blog, including one operated by a third party.

Post: an item inserted to a blog or an entry to any type of computerized bulletin board or forum.

Forum: an online discussion site.

Comments: responses to a blog post, news article, social media entry or other social networking post.

Commenting: the act of creating and posting a response to a blog post, news article, social media entry or other social networking post. Commenting can also entail the act of posting an original composition to an unrelated post or article.

Avatar: a computer user's representation of himself/herself, or of an internet identity or alter ego.

Identity: an online identity, Internet identity or Internet persona that a social networking user establishes. This can be a real name, an alias, a pseudonym or a creative description.

Handle: the name of one's online identity that is used most frequently.

User Name: the name provided by the participant during the registration process associated with a Web site that will be displayed publicly on the site.
MODEL POLICY
Interactions with Transgender
and
Gender Non-Conforming Individuals

In Partnership With
The Allegheny County District Attorney’s Office

NOVEMBER-2018
This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.

ACCPA-DA MODEL POLICY
Interactions with Transgender and Gender Non-Conforming Individuals

01. Purpose
The purpose of this procedure is to establish general guidelines and expectations for response for services with the transgender community and gender non-conforming individuals. Consistent with department core values, we strive to deliver the highest service possible. Changes in law and procedure, as well as training provided on this procedure, will give rise to modifications and updates.

02. Definitions
Cisgender: A term used to describe people who identify with the sex they were assigned at birth.

Gender Non-Conforming: A term for individuals whose gender expression does not fall within traditional expectations of masculine or feminine gender.

Gender Expression: One’s external expression of self, not necessarily related to one’s gender identity.

Gender Identity: One’s internal sense of their gender. Sex Assigned at Birth: The assignment of biological sex at birth. The assigned sex may or may not reflect one’s gender identity, gender expression, or body presentation.

Sexual Orientation: The type of sexual, romantic, emotional/spiritual attraction one feels for others.

Transgender: An umbrella term for persons whose gender identity or gender expression does not conform to that typically associated with the sex which they were assigned at birth.

03. Procedure
a. Employees should address transgender and gender non-conforming individuals by the individual’s expressed preference, even if the individual has not received legal recognition of the chosen name.

b. In addressing or discussing a transgender or gender non-conforming individual, officers should use the preferred personal pronouns for that individual (e.g. she/her/hers, he/him/his, they/them/their, etc.). If an officer is uncertain about which personal pronouns to use, the officer should politely ask the individual which pronouns would be preferred.

c. Employees shall not use language that a reasonable person would consider demeaning or derogatory; language aimed at a person’s actual or perceived gender identity, gender expression or sexual orientation.

d. Employees shall not make assumptions regarding an individual’s sexual orientation based on the individual’s gender identity or expression.

e. Employees shall not disclose an individual’s transgender or gender non-conforming identity to any other person or group absent a proper law enforcement purpose.

f. Officers should be cognizant of the fact that transgender and gender non-conforming individuals may have unique medical needs and good faith efforts should be taken to facilitate those known/expressed conditions requiring a timely medical response.

g. All searches shall be done in compliance with the Department Search and Seizure Policy.

04. Records: Name and Gender Classification for Law Enforcement Response and Investigations

a. For an offender/arrestee, officers shall report the biological sex of the person as it appears on an official government identification. Other names used should be entered as, also known as (a.k.a.). Officers should include the name given as, also known as (a.k.a.) in the report and note the expressed gender in their report. If no government identification is available, the officer may respectfully ask the individual for their legal name and gender to use in the officer’s report. If the individual identifies as non-conforming or is uncooperative about their gender, officers should document the individual as “not identified” in their report.

b. For a victim who identifies as transgender, officers shall use the gender with which the victim identifies. If the victim holds identification with another name and gender, this should be recorded as, also known as (a.k.a.).

c. When completing narratives that include transgender or gender non-conforming individuals, officers will note the individual’s legal information in the report; however, the individual’s chosen name and personal pronouns will be used during the body/narrative of the report.
For the purpose of completing UCR’s or NIBRS reports, officers shall report the biological sex of the person as it appears on an official government identification. If no government identification is available, the officer may respectfully ask the individual for their gender to use in the UCR or NIBRS report. If the individual identifies as non-conforming or is uncooperative about their gender, officers should use their best, good-faith judgment in selecting which gender to report to UCR’s or NIBRS.
This MODEL GUIDELINE should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.

ACCPA-DA
Model Medical Marijuana Act Guideline

The below information may assist officers when dealing with individuals on the purchase and transportation of medical marijuana.

Medical marijuana in Pennsylvania is treated the same as other prescribed medications obtained at a pharmacy.

As such, it must be in the following form:

- Pill
- Oil
- Topical gel
- Creams or ointments
- Tincture
- Liquid
- A form medically appropriate for administration by vaporization or nebulization, including dry leaf or “flower” form.

Medical marijuana can be legally purchased at an approved dispensary then transported in a vehicle.

Those who do carry medical marijuana must do the following:

- Keep the marijuana in its original container and packaging from the dispensary.
- Keep the receipt obtained from the dispensary with the medical marijuana at the time of purchase.
- Be in possession of their approved Pennsylvania medical marijuana identification card.
- Store / transport the medical marijuana in an area of the vehicle that is not accessible to the driver.

So what if the person is from out of the state?

According to the Pennsylvania State Police the medical marijuana program is only for Pennsylvania residents who possess a valid medical marijuana identification card, there are no provisions in the Pennsylvania program for out-of-state patients.
Those found under the influence of Medical Marijuana operating a vehicle can be charged with DUI.
In Partnership With

The Allegheny County District Attorney’s Office

2020
This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.

ACCPA-CJAB-DA MODEL POLICY June 2020

DOMESTIC VIOLENCE, CRIME VICTIMS NOTIFICATION, REPORTING SUSPECTED CHILD ABUSE.

01. Purpose:

The purpose of this policy is to provide Police Officers with protocols on the following: handling of Domestic Violence Incidents, requirements to be followed in the event a Police/Law Enforcement Officer(s) is involved in a Domestic Incident as an alleged perpetrator, the Pennsylvania Protection From Abuse (PFA) Act, assisting victims of abuse in obtaining shelter, counseling, and a Protection From Abuse Order, arrest for a PFA violation, the Pennsylvania Protection of Victims of Sexual Violence or Intimidation (PSVI) Act, arrest for a PSVI violation, the Pennsylvania Crime Victim’s Act, the requirement to disseminate important information to victims of crime and the Pennsylvania Child Protective Services Law. Changes in law and procedure, as well as training provided on these procedures, will give rise to modifications and updates.

02. Policy:

It is the policy of the Police Department to:

(1) comply with the responsibilities of state and local law enforcement under Section 2711 of the Pennsylvania Crimes Code (18 Pa. C.S.A. §2711), which authorizes warrantless arrests in certain crimes occurring in family or intimate relationships;

(2) comply with the requirements of the Pennsylvania Protection From Abuse Act, as amended, (23 Pa. C.S.A. 6101, et seq.) and this order in regard to the responsibilities of law enforcement agencies under the Act.

(3) comply with the requirements of the Pennsylvania Protection of Victims of Sexual Violence or Intimidation Act in regard to the responsibilities of law enforcement agencies under the provisions of 42 Pa. C.S. §62A04 of the Act.

(4) comply with the Pennsylvania Crime Victim’s Act (18 Pa. C.S. §11.101 et seq.) and this order in regard to responsibilities of state and local law enforcement.

(5) comply with §6311 of the Pennsylvania Child Protective Services Law (23 Pa. C.S.A. 6301 et seq.) and this order in regard to persons required to report suspected child abuse.

03. Definitions:
"Firearm." Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon as defined by 18 Pa.C.S. § 6105(i) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).

"Other weapon." Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term does not include a firearm.

"Weapon." Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term includes a firearm which is not loaded or lacks a magazine, clip or other components to render it immediately operable and components which can readily be assembled into a weapon as defined by 18 Pa.C.S. § 907 (relating to possessing instruments of crime).

04. Responsibilities of Responding Officers on Domestic Violence Calls:

A. Once on scene, Officers will identify themselves as police officers, explain the reason for their presence, and request entry into the premises.

B. Officers should ask to see the person who is the subject of the call. If the person who called the police is someone other than the subject of the call, officers should not reveal the caller’s name.

C. Officers may enter and conduct a search of the premises relevant to the incident if consent has been given to do so.

D. If refused entry, officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, officers should request 911 to contact the caller for more information.

E. Officers should request that a Supervisor/OIC respond to the location.

F. Officers should not leave the scene without speaking to the subject of the call.

G. With respect to a call for a Domestic Violence, if no one answers the door or if the police request to speak with the subject is denied, then in most cases “exigent circumstances” will exist to allow police to insist on speaking to the subject or to force entry in order to ensure the safety of all parties involved.

H. If the subject of the call is no longer on scene, officers should attempt to have the subject speak personally to an officer. If this is not possible, officers should then attempt to speak to the subject via phone. If immediate contact cannot be made, officers should attempt a follow up contact with the subject of the call as soon as practicable.

05. Arrests in Domestic Violence Cases under Crimes Code §2711:
A. **Probable Cause Arrests Without Warrant:**

Police Officers shall maintain a working knowledge of the provisions enumerated in Title 18, Section 2711, “Probable cause arrests in domestic violence cases,” regarding their right to arrest without warrant in domestic violence cases.

In all cases where an arrest may be made under the criteria set forth in §2711, it will be the policy of this department that AN ARREST WILL BE MADE WITH OR WITHOUT THE CONSENT OF THE VICTIM. Officers shall emphasize to both the victim and defendant that the arrest is being made by the Police Department and not the victim. When an on view arrest is not feasible, a warrant will be requested for Defendant. Charges should not be filed via summons in an intimate partner violence case.

B. **Criteria For Arrests Under §2711:**

Section 2711 of the Crimes Code authorizes an Officer to make a warrantless arrest of an actor even though the offense was not committed in the presence of the Officer. In order to make a warrantless arrest, under this section ALL of the following requirements must be present:

1. The Officer must have Probable Cause to believe that one of the following crimes has been committed:
   
   - Section 2504 (relating to involuntary manslaughter), or
   - Section 2701 (relating to simple assault) or
   - Section 2702 (a)(3), (4), and (5) (relating to aggravated assault) or
   - Section 2705 (relating to recklessly endangering another person) or
   - Section 2706 (relating to terroristic threats) or
   - Section 2709.1 (relating to stalking) or
   - Section 2718 (relating to strangulation)

2. The crime must have occurred between persons in a covered relationship as defined in sub-section C (below) of this policy.

3. The Police Officer must have observed recent physical injury to the victim or have other corroborative evidence*.

   *Corroborative evidence could be information obtained from some other person who witnessed the event, an admission by the suspect that he/she committed the actions that constitute the elements of one of the enumerated crimes, or any other supportive physical evidence.

C. **Scope of Coverage:**

This policy applies to any call to the Police Department reporting a disturbance between persons in a “covered relationship,” as defined in both the Pennsylvania Crimes Code §2711 and the Pennsylvania Protection from Abuse Act (23 Pa. C.S.A. § 6-02 (a)) as family
or household members as follows:

- spouses or persons who have been spouses;
- persons living as spouses or who lived as if they were spouses;
- parents and children;
- persons related by consanguinity (blood) or affinity (marriage);
- current or former sexual or intimate partners; and
- persons who share biological parenthood.

There is no time limit on these relationships and no requirement that the parties need to have ever lived together.

D. Dual Arrests Discouraged:

Police are not required to arrest both parties involved in an assault when each claims to have been assaulted by the other. Dual arrests are discouraged and should be the exception as prosecution of both parties is unlikely to be successful. Officers who do make dual arrests should include in their report who the primary aggressor was.

1. No Arrest if Justification:

Persons acting with justification as set forth in Chapter 5 of the Pennsylvania Crimes Code General Principles of Justification (for example “self-defense”), are NOT subject to arrest.

2. Primary Aggressor Determination:

If possible, Officers should determine the primary physical aggressor. Only the primary physical aggressor should be arrested unless the actions of the other party were significantly out of proportion to the threat from the primary physical aggressor.

An Officer should consider the following factors in determining the primary aggressor:

- Whether one of the parties was acting in self-defense regardless of who made the first physical contact;
- The intent of the law to protect victims of domestic violence from continuing abuse;
- The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
- The history of domestic violence between the parties;
- Size and strength of the parties;
- The credibility of the stories of the parties;
- Other eyewitness statements;
- All other circumstances of the incident.

E. Steps Taken After Arrest: If a warrantless arrest is made under Section 2711, the officer must take the following steps:
1. The responding Officer(s) SHALL SEIZE ALL FIREARMS/WEAPONS USED BY THE DEFENDANT in the commission of the offense. A Property/Evidence Report shall be completed with a detailed inventory, listing all firearms/weapons seized.

2. If other firearms/weapons are present in the home, seizure of those firearms/weapons should be discussed with the family. Consent should be obtained before seizing any firearms/weapons that are present but were not used in the commission of the offense. A Property/Evidence Report shall be completed with a detailed inventory, listing all firearms/weapons seized and if possible, signed by the consenting party to avoid confusion in the future as to what was taken. Attachment #1 is an Authorization to Seize Firearms/Weapons Form. Attachment #2 is a Consent To Search Form, if consent to search is necessary.

3. Following arrest, the Officer(s) SHALL TAKE THE DEFENDANT FOR IMMEDIATE ARRAIGNMENT before the minor judiciary or to Shuman Center. UNDER NO CIRCUMSTANCES SHALL THE ACTOR BE RELEASED BEFORE ARRAIGNMENT. Every attempt will be made to have juveniles arrested for Domestic Violence, committed to Shuman Juvenile Detention Center. If Shuman Center refuses to accept, notify Children, Youth & Families for further guidance.

4. If the actor is not present upon arrival of the Police, a description and an order to arrest will be given to County 911 for broadcast. Attempts to effect an arrest will continue until the actor is apprehended. If an arrest can not be made before the end of the Officer’s shift, then the responding OFFICER SHALL OBTAIN AN ARREST WARRANT. SUMMONS SHALL NOT BE USED IN DOMESTIC VIOLENCE CASES.

06. **Arrests for Violations of Protection from Abuse (PFA) Orders**

   **A. Verification of Protection From Abuse (PFA) Order:**
   When responding to any Domestic Violence call, Police Officers will ascertain if a PFA Order is in effect for any party in the dispute. This can be done by obtaining a hard copy directly from the victim, checking with the Pennsylvania State Police through CLEAN or checking the Police Department where the hard copy is on file. Officers are to enforce PFA orders issued by a Court within Allegheny County, issued by a Court in another judicial district within this Commonwealth, or a foreign protection order issued by a comparable Court.

   **B. Mandatory Arrest:**
   Officers have a mandatory arrest obligation for PFA Order violations if the following two factors are present:
   
   - Valid PFA Order is in effect, and
   - Probable Cause exists that there has been a violation of a safety provision of the PFA Order.

   1. Probable Cause for PFA violation arrests can be established by a credible victim statement. *Unlike Crimes Code § 2711, there is no need for the Officer to see recent*
physical injury or have other corroborative evidence. In all cases where there is Probable Cause to believe that there has been a violation of a “safety provision” of a valid PFA Order, then the responding Officer has a mandatory arrest obligation and shall make a warrantless arrest or obtain an arrest warrant for Indirect Criminal Contempt (ICC) for Violation of a PFA Order. This will happen with or without consent of the victim.

2. Safety Provisions of a PFA Order include the following:

- **No abuse** (Directing the defendant to refrain from abusing the plaintiff or minor children) (§6102 (a) (1));
- **Exclusion from plaintiff’s residence** (Excluding the defendant from the residence where the plaintiff lives) (§6102 (a) (2 & 3));
- **Custody** (Awarding custody of minor children to the plaintiff) (§6102 (a) (4));
- **No Contact / Stay Away** (Prohibit the defendant from having any contact with the plaintiff or minor children including but not limited to restraining the defendant from entering the place of employment or business or school of the plaintiff or minor children (§6102 (a) (6));
- **Weapons Relinquishment** (Ordering the defendant to relinquish firearms, other weapons, ammunition, and firearm licenses, and prohibiting defendant from acquiring any other firearms) (§6102 (a) (7));
- **No stalking or harassment** (Directing the defendant to refrain from stalking or harassing the plaintiff and other designated persons) (§6102 (a) (9)); and,
- Any other special provision of a PFA Order that expressly directs that an arrest be made for violation of that provision (check Provision 8 in the standard Final PFA Order).

3. Warrantless arrest is authorized for PFA violation arrests whether or not the violation was committed in the presence of the Officer.

4. If an arrest warrant for PFA violation is delivered to the Police Department from another jurisdiction for execution, Officers shall make every reasonable effort to execute the warrant and arrest the defendant as soon as possible. The Officer shall then follow the steps listed below in sub-section C.

5. Officers can verify the existence if an ICC warrant by contacting the Allegheny County Sheriff’s Warrant Office at 412-350-4714 (24 hours a day).

C. **When Defendant is Apprehended for Violation of a PFA Order:**

1. **Mandatory seizure of firearms.**
   (a) Once an arrest is made for violation of a PFA Order, the Officer must seize all firearms, other weapons or ammunition that were used or threatened to be used in the act that is the subject of the arrest or during prior incidents of abuse. In addition, the Officer shall seize any firearms/weapons in the defendant’s possession.

   (b) For the future safety of the victim and Police, if other firearms/weapons are present in the home, seizure of those firearms/weapons should be discussed with the family. Consent
should be obtained before seizing any firearms/weapons that are present but were not used in the commission of the offense.

(c) A Property/Evidence Report shall be completed with a detailed inventory, listing all firearms/ weapons seized and if possible, signed by the consenting party to avoid confusion in the future as to what was taken. Attachment #1 is an Authorization to Seize Firearms/Weapons Form. Attachment #2 is a Consent To Search Form, if consent to search is necessary.

2. Following arrest, the Officer shall take the defendant for immediate arraignment before the minor judiciary or to Shuman Center. **UNDER NO CIRCUMSTANCES SHALL THE ACTOR BE RELEASED BEFORE ARRAIGNMENT.** If Shuman Center will not accept a juvenile and the victim of the offense is the parent or guardian, the Officer should contact Children, Youth and Family Service (CYF) for disposition of the juvenile.

3. The Officer shall file a Complaint for Indirect Criminal Contempt for Violation of a PFA Order with the minor judiciary. In addition to charging the defendant with Indirect Criminal Contempt (ICC), any applicable Crimes Code violations should also be charged by the responding Officer.

4. Officers shall notify a victim when a defendant has been arrested for a violation of a PFA order within 24 hours after preliminary arraignment unless the victim cannot be located. Officers should also provide victims with offender status information after the completion of the arraignment, such as whether the defendant was released or committed as well as any bond conditions.

D. **When Defendant is not Immediately apprehended for Violation of a PFA Order:**

1. If the Officer has Probable Cause to believe that a violation of a safety provision of a valid PFA Order has occurred but the actor is not on the scene and cannot be immediately located, the Officer will give a description of the actor to the dispatcher (County 911) for broadcast, and attempts to arrest will continue until the actor is apprehended.

2. If an arrest can not be made before the end of the Officer’s shift, the responding Officer shall file a Complaint for Indirect Criminal Contempt for Violation of a PFA Order at the office of the Magisterial District Judge where the violation occurred or at Allegheny County’s Night Court. Upon the filing of the Complaint, an arrest warrant will be issued.

3. A copy of the arrest warrant for PFA violation will be given by the Magisterial District Judge to the Officer for execution or faxed to an appropriate 911 dispatch center where the defendant may be located. The original arrest warrant will be faxed and mailed to the Sheriff’s Department for inclusion in a county-wide registry of PFA Violation arrest warrants.

4. Once the arrest warrant is executed and the defendant is arrested and taken in for arraignment (see Section 5, sub-section C 4, for victim notification requirements), the arrest warrant will be cleared from the county-wide registry.
5. The victim does not need to sign the Indirect Criminal Complaint or be present while the Officer prepares it and presents it before the Magisterial District Judge.

07. Relinquishment of Firearms/Weapons: Misdemeanor Crime of Domestic Violence

A. A Misdemeanor Crime of Domestic Violence (MCDV) is an offense that is a misdemeanor under federal, state or tribal law that involves the use or attempted use of physical force or the threatened use of a deadly weapon and is committed by a current or former spouse, parent or guardian of the victim, a person with whom the victim shares a child in common, a person who is cohabiting or has cohabited with the victim as a spouse, parent or guardian, or a person similarly situated to a spouse, parent or guardian of the victim.

B. Upon conviction of MCDV, Defendant will be ordered to relinquish his/her firearms within 24 hours.
   - Under penalty of law, Defendant must list all firearms he/she possesses for relinquishment.
   - Court will determine to which police department or armory Defendant will relinquish firearms.
   - Court’s Order of Relinquishment will be transmitted to the relevant police department to inform them of Defendant’s requirements.
   - Under Pennsylvania Law, Defendant may not have firearms for a period of 5 years.

C. When a Defendant relinquishes as ordered, the designated police department must take the weapons and follow department policies for storage and/or destruction. When a Defendant fails to relinquish, the designated police department must investigate the failure to relinquish by doing the following:
   - Locate and talk to defendant about failure to relinquish.
   - Follow up with information received by Defendant and possibly crime victim.
   - If investigation develops sufficient information, obtain a search warrant to locate and confiscate firearms.
   - Follow up with any other investigative leads as they develop.
   - Charge Defendant with M2 Failure to Relinquish and other relevant crimes.

08. Relinquishment of Firearms/Weapons: Protection From Abuse Order (PFA)

A. All police agencies must have an active account with the Protection From Abuse Database (PFAD). If necessary, your department can go to www.pfad.pa.gov to establish an account.

B. Upon service of a Temporary PFA which includes a weapons relinquishment order or the Court imposing a Final PFA which includes a weapons relinquishment order, the Defendant has 24 hours to relinquish firearms to law enforcement. The PFA will be entered into PFAD with the Defendant’s home law enforcement agency. This agency will receive a notification of the order via PFAD/CLEAN. This agency will be responsible for enforcement of the relinquishment requirement.

C. If Defendant relinquishes as required, the police department must enter the receipt of the weapons into PFAD. This will stop future notifications from PFAD/CLEAN. The police
department should follow department policies for storage of the relinquished weapons.
  • If Defendant relinquishes to an Amory or an attorney (only eligible 3rd parties),
    the police department must follow up to verify that such relinquishment occurred.
D. If relinquishment does not occur within 24 hours, PFAD/CLEAN will send daily
  notifications of the outstanding relinquishment order until relinquishment is satisfied and
  the police department has entered such into PFAD.
E. If Defendant fails to relinquish after 24 hours, the police department will need to
  investigate the failure to relinquish by doing the following:
  • Locate and talk to defendant about the failure to relinquish
  • Follow up on information received by the Defendant and the Plaintiff in the PFA.
  • If investigation develops sufficient information, obtain a search warrant to locate
    and confiscate firearms.
  • Follow up with any other investigative leads as they develop.
  • Charge Defendant with M2 Failure to Relinquish and other relevant crimes.
F. Any questions regarding PFAD should be directed to the Pennsylvania State Police Help
  Desk at 1-877-777-3375.

09: **Arrest for Violations of Protection of Victims of Sexual Violence or Intimidation (PSVI) Orders.**

Unlike the PFA Act there are NO firearms relinquishment provisions in the PSVI Act*.

**A. Verification of PSVI Order:**
Police Officers will ascertain if a PSVI Order is in effect for any party in the dispute. This can be
done by obtaining a hard copy directly from the victim, checking with the Pennsylvania State
Police through CLEAN or checking the Police Department where the hard copy is on file. Officers
are to enforce PSVI orders issued by a Court within Allegheny County, issued by a Court in another
judicial district within this Commonwealth.

**B. Mandatory Arrest:**
Officers have a **mandatory arrest obligation** for PSVI Order violations if the following two
factors are present:

• Valid PSVI Order is in effect, and
• Probable Cause exists that there has been a violation of a
  provision of the PSVI Order.

1. Probable Cause for PSVI violation arrests can be established by a credible victim statement.
   *There is no need for the Officer to see recent physical injury or have other corroborative evidence.
   In all cases where there is Probable Cause to believe that there has been a violation of a valid
   PSVI Order, then the responding Officer has a **mandatory arrest obligation** and shall make
   a warrantless arrest or obtain an arrest warrant for Indirect Criminal Contempt (ICC) for
   Violation of a PSVI Order*. This will happen with or without consent of the victim.

2. Warrantless arrest is authorized for PSVI violation arrests whether or not the violation was
   committed in the presence of the Officer.

3. If an arrest warrant for PSVI violation is delivered to the Police Department from another
   jurisdiction for execution, Officers shall make every reasonable effort to execute the warrant and
arrest the defendant as soon as possible. The Officer shall then follow the steps listed below in sub-section C.

4. Officers can verify the existence if an ICC warrant by contacting the Allegheny County Sheriff’s Warrant Office at 412-350-4714 (24 hours a day).

**C. When Defendant is Apprehended for Violation of a PSVI Order:**
1. Following arrest, the Officer shall take the defendant for immediate arraignment before the minor judiciary or to Shuman Center. **UNDER NO CIRCUMSTANCES SHALL THE ACTOR BE RELEASED BEFORE ARRAIGNMENT.** If Shuman Center will not accept a juvenile and the parent or guardian refuse to take custody, the Officer should contact Children, Youth and Family Service (CYF) for disposition of the juvenile.

2. The Officer shall file a Complaint for Indirect Criminal Contempt for Violation of a PSVI Order with the minor judiciary. In addition to charging the defendant with Indirect Criminal Contempt (ICC), any applicable Crimes Code violations should also be charged by the responding Officer.

3. Officers shall notify a victim when a defendant has been arrested for a violation of a PSVI order within 24 hours after preliminary arraignment unless the victim cannot be located. Officers should also provide victims with offender status information after the completion of the arraignment, such as whether the defendant was released or committed as well as any bond conditions.

**D. When Defendant is not immediately apprehended for Violation of a PSVI Order:**

1. If the Officer has Probable Cause to believe that a violation of a valid PSVI Order has occurred and has made a decision to make an arrest but the actor is not on the scene and cannot be immediately located, the Officer will give a description of the actor to the dispatcher (County 911) for broadcast, and attempts to arrest will continue until the actor is apprehended.

2. If an arrest cannot be made before the end of the Officer’s shift, the responding Officer shall file a Complaint for Indirect Criminal Contempt for Violation of a PSVI Order at the office of the Magisterial District Judge where the violation occurred or at Allegheny County’s Night Court. Upon the filing of the Complaint, an arrest warrant will be issued.

3. A copy of the arrest warrant for PSVI violation will be given by the Magisterial District Judge to the Officer for execution or faxed to an appropriate 911 dispatch center where the defendant may be located. The original arrest warrant will be faxed and mailed to the Sheriff’s Department for inclusion in a county-wide registry of PSVI Violation arrest warrants.

4. Once the arrest warrant is executed and the defendant is arrested and taken in for arraignment (see sub-section C-3 for victim notification requirements), the arrest warrant will be cleared from the county-wide registry.
5. The victim does not need to sign the Indirect Criminal Complaint or be present while the Officer prepares it and presents it before the Magisterial District Judge.

*THE PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION (PSVI) ACT.*
While PSVI Orders may be sought by a victim, the District Attorney’s Office suggests that Police Officers inform victims to consult an Assistant District Attorney (ADA) from the Crimes Person Unit, when safety permits, to discuss the process and effects of the PSVI Order.
In the event a victim obtains an emergency or temporary PSVI Order, Officers should direct him/her to contact the District Attorney’s Office prior to the hearing in Family Court to speak with an ADA from the Crimes Person Unit about the manner the PSVI Order relates to the pending criminal case.

10. **Evidence Collection in Domestic Violence Cases**
All possible evidence shall be collected in Domestic Violence cases as the success of any investigation and subsequent prosecution depends on the proper discovery, collection, packaging and processing of all evidence, including but no limited to the following:

- Photographing the crime scene;
- Identification of weapons and firearms;
- Photographing victim injuries; if the nature of the injuries dictates, additional photographs should be taken at a later time. (Example: a bruise that would increase in severity in a day or two)
- Collection of physical evidence;
- Recording of spontaneous statements by the suspect or statements by the victim;
- Identification of witnesses who observed or heard the incident and the recording of those witnesses’ statements;
- Obtaining a written and signed statement from the victim, if the victim is willing to provide one;
- Obtaining a Mirandized statement about the events from the suspect; (Attachment #3 Miranda Form).
- Securing tape of 9-1-1 calls.
- Body Worn Cameras (see model BWC policy).

11. **Registry, Service, and Initial Enforcement of PFA Orders**

A. A daily log entry under the heading “ASSIST,” shall be initiated whenever someone presents a PFA order to the Police Department. The log entry will document all pertinent information associated with the order and the parties involved. The log entry will also note whether the order has been served.

(1). A copy of the order will be attached to the PFA clipboard.

(2). The Administrative Assistant will enter a copy of the order into the file available on the intra-departmental Website. This file will be accessible via MDT to members on a 24 hour a day basis.
B. Foreign Protection Orders:
All foreign protection orders shall have the presumption of validity in this Commonwealth and Officers shall make arrests for violations thereof, in the same manner, as set for violations of protection orders issued within this Commonwealth. Officers shall rely upon any copy of a foreign protection order, which has been presented to the member by any source. Officers should attempt to verify the existence of a protection order. The fact that a foreign protection order has not been filed with the Family Court or entered into the Pennsylvania State Police registry shall not be grounds for an Officer to refuse to enforce the order. (ANY DOUBT CONTACT AN ASSISTANT DISTRICT ATTORNEY)

C. Service and Immediate Enforcement:
If the PFA defendant is located within the police department’s jurisdiction, then the Officers will as soon as possible personally serve the defendant with a copy of the PFA Petition and Order. They will simultaneously enforce the PFA Order provisions, including but not limited to exclusion of the defendant from the plaintiff’s residence and weapons relinquishment. In cases where service is completed on Temporary PFA Orders, an Affidavit of Service shall be completed and faxed to Family Court’s PFA Unit.

12. Notification of Rights to Victims of Abuse

A. Notice of Services and Rights:

1. Officers responding to an incident of domestic violence shall provide the victim with oral and written notice of services and rights available to the victim including the availability of safe shelter and of domestic violence services in the community, pursuant to the PFA Act and Crimes Code Section 2711.

2. Within 24 hours of the law enforcement agency’s first contact with the victim, the Officer must provide basic information of the rights and services available for crime victims in accordance with Pennsylvania’s Crime Victims Act.

3. Within 48 hours of the law enforcement agency’s first contact with the victim, the Officer is required to give the victim information on victim’s compensation as well as provide an application for crime victim’s compensation for any victims that have suffered physical or mental injury, death or loss of earnings as a direct result of the criminal act. This notice is required by the Pennsylvania’s Crime Victims Act.

4. All of these requirements set forth above in 1-3, may be fulfilled by using the “Rights and Services Available to Victims of Crime In Pennsylvania” booklet, provided by the District Attorney’s Office and PCCD. Members shall explain the booklet and provide it to every victim. Members will request the victim sign the last page, acknowledging receipt and understanding. This page should be filed with the incident report. It should also be documented in the incident report that
the required notice was provided to the victim.

B. Additional instructions that may be given to victim’s seeking PFA orders:

(1) To Obtain Order During Normal Business Hours:
   (a) Protection from abuse orders are handled in room 3030 of the Family Court, located at 440 Ross St., Pittsburgh, Pennsylvania 15219, between 9:00am and 11:00am. Assistance with completing the PFA petition will be given, and a hearing will be conducted at 1:00pm.

(2) To Obtain Order After Normal Business Hours and Weekends:
   (a) Emergency PFA orders can be obtained at the District Magistrate’s office, or at Night Court.

13. Domestic Violence Incident Involving Police/ Law Enforcement Officer:

A. In the event that a Police/Law Enforcement Officer is involved in a Domestic Incident within our jurisdiction (regardless of the involved Officer’s jurisdiction), the responding Patrol Officer(s) shall request that a Supervisor who is of a higher rank than the involved Officer(s) report to the scene and take appropriate action. The Chief of Police shall be notified through the Chain-of-Command whenever a Police Officer is involved in a Domestic Incident, whether violent, or non-violent.

(1) On-Scene Supervisor Responsibility:

* Obtain needed medical assistance.
* Secure the scene and collect any evidence.
* Ensure an arrest is made where Probable Cause exist.
* Attempt to locate the alleged offender if he/she has fled.
* Remove firearms.
* Address issues of victim safety.
* Notify the Chief of Police in the accused Officer’s jurisdiction.

B. In the event that a Police Officer from this Department is involved in a Domestic Incident outside of our jurisdiction (violent or non-violent) it is the responsibility of that Officer to notify the On-Duty OIC from this department who shall notify the Chief of Police. The Chief of Police or his designee shall initiate an Internal/Administrative review to determine if any departmental rules or regulations were violated.

C. In the event that a Police Officer from this Department learns that he/she is the subject of a criminal arrest, criminal investigation and/or any Protection From Abuse Order, regardless of the jurisdiction, he/she shall immediately notify the On Duty OIC from this Department and provide a copy any criminal charges and/or PFA Order. The OIC shall notify the Chief of Police. The Chief of Police or his designee shall initiate an Internal/Administrative review to determine if any departmental rules or regulations were violated and the employment status of the involved Officer(s) under the mandated
requirements of Pennsylvania Statute 53 P.S. 752.1, “Confidence in Law Enforcement Act” (Attachment #4).

14. **Procedures in Cases Where Crime Victim Notification is Necessary:**

A. Members who come in contact with a serious crime victim(s) (sexual assault, simple and aggravated assault, robbery, burglary, harassment, stalking, hate crimes, attempted homicide, DUI accident victim) who was injured or suffered a loss, are required to provide that victim(s) with information on victims’ compensation and available services. Both notifications shall be in writing. The victims’ compensation notification will be provided within 48 hours of contact with that victim. The available services notification will be provided within 24 hours of contact with the victim.

B. Members shall use the pamphlet provided by the District Attorney’s Office and PCCD. This pamphlet will meet the criteria for both notifications. The form will direct victims to the centers, who in turn, will provide free assistance in filing victim compensation claim forms and provide information on available services.

   (1). Members shall give the victim one copy of the pamphlet, and then have the victim sign the back page, as acknowledgement of receipt. The signed back page will then be filed with the incident report and included in the case folder.

   (2). Members shall give the victim one copy of the application for crime victim’s compensation.

C. Incident reports shall document the fact that the victim was provided with the proper notification paperwork, along with other pertinent information.

D. In personal injury crimes, members shall notify the victim when an arrest is made. Members will provide the victim with the results of the arraignment, including bail conditions and status, i.e. released or committed. When known by the member, the victim shall be notified of any escape on the part of the suspect, or release from a holding facility. This will be documented in the incident/ supplemental report.

E. Victim’s property that was collected as evidence shall be returned to the victim once the Assistant District Attorney had determined that the evidence is no longer needed.

15. **Responding to a Report of Child Abuse:**

   *(CHILD ABUSE 1ST RESPONDER PROTOCOL AVAILABLE ON DATA VIA PC OR MDT)*

A. **Actions by Officers at the possible crime scene:**

   **Assess safety and health of the child**

      a. Take action to prevent the risk of further abuse

      b. Ensure proper medical care for the child victim
i. if you see signs of abuse or
ii. if the child has medical complaints.
iii. If the allegation is sexual abuse within the past 72 hours, the child should
    be taken to Children’s Hospital

c. **Gather facts** and **evidence**. Note: an incident report form is available at
    https://p080.da.allegheny.pa.us

a. **Gather Facts.** Examples:

   i. Who reported the abuse?

   ii. Nature of the allegation. When, where it occurred.

   iii. Names of the child victim and alleged perpetrator.

   iv. Note: the child victim will be interviewed by a detective or at a forensic
       interview.

   a. **Preserve the possible crime scene and gather Evidence.**

      Examples:

      i. Objects that could have caused physical marks on the child

      ii. Child victim’s clothing

      iii. Child victim’s bedding

      iv. Note: mobile crime units A

      1. Allegheny County 412 473-1252
      2. City of Pittsburgh 412 323-7141

   d. **Provide information** to the victim or non-abusing adults about available Social
      Services. This provides help to the victim and non-offending family members and
      their support may help in successful prosecution

**B. WHAT NOT TO DO** that can harm the Child or the prosecution of the Perpetrator:

1. **DO NOT** Interview the child victim.
   a. He or she will be interviewed at a Forensic Interview or by investigating
      Detectives.

2. **DO NOT** take a written statement from the child.

3. **DO NOT** threaten the child with a polygraph test.

4. **DO NOT** give the child gifts.
5. **DO NOT** touch the child.

C. Forensic Interview

1. You or the investigating Detective must arrange for a Forensic Interview of the child in certain cases:

   a. Child Victim is under the age of 14.

   b. Child Victim is not able to communicate with law enforcement.

2. Two Child Advocacy Centers for Forensic Interviews are:


   b. Division of Child Advocacy (Pittsburgh) 412-692-8664.

D. When to contact the Office of Children Youth and Family (CYF) 412-473-2000:

   1. You or the investigating Detective must contact CYF in certain cases:

      a. By law, CYF must respond if the perpetrator is a member of the household, parent paramour of parent, older child or caretaker (broadly defined).

      b. If you are unclear, always contact CYF and report the basic facts of the case.

E. Social Service Agencies that provide support to victims and non-offending adults:

   - Center for Victims 412-392-8582 or 1-866-644-2882
   - Family Resources 412-641-4546
   - Pittsburgh Action Against Rape 412-431-5665 or 1-866-363-7273

16. **Legal Mandate Requiring the Reporting of Suspected Child Abuse:**

A. General Rule - Persons who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made in accordance with §6313 (relating to reporting procedure) when they have reasonable cause to suspect on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or official capacity, is an abused child. Except with respect to confidential communications made to an ordained member of the clergy, which are protected under 42 Pa.C.S. §5943 (relating to confidential communications to clergymen), the privileged communication between any professional person required to report, and the patient or client of that person, shall not apply to situations involving child abuse and shall not constitute grounds for failure to report as required by this chapter.

B. Enumeration of persons required to report:

   (1). Persons required to report include, but are not limited to, any licensed physician,
osteopath, medical examiner, coroner, funeral director, dentist, optometrist, chiropractor, podiatrist, medical intern, registered nurse, licensed practical nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, Christian Science practitioner, member of the clergy, school administrator, school teacher, school nurse, social services worker, day-care center worker or any other child-care or foster-care worker, mental health professional, peace officer or law enforcement official.

C. Reporting Procedure:
   (1). Reports from persons who are required to report shall be made immediately by telephone and in writing within 48 hours after the oral report to the appropriate county agency.

17. Procedure For Reporting Child Abuse:

A. Any member who comes in contact with a child in which child abuse is suspected, shall start or cause to be started, a criminal investigation into the suspected abuse. The investigation shall address, but not be limited to:
   (1). The names and addresses of the child and parents and all other persons, such as babysitters, relatives, etc., responsible for the care of the child.
   (2). The location where the suspected abuse occurred, and the time or time period of the suspected abuse.
   (3). The age and sex of all the subjects in the investigation.
   (4). The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or siblings of the child.
   (5). The name and relationship of the person(s) responsible for causing the suspected abuse, if known, and any evidence of prior abuse by that person(s).
   (6). Information regarding the family composition.
   (7). Identify the source of the report of abuse, and where that person can be reached.
   (8). Any actions taken by the reporting source and/or the investigating officer, including the taking of photographs and x-rays, removal or keeping of the child, or notifying other agencies.
   (9). All other information required for a complete and detailed investigation.

B. Once the investigating member has reasonable facts, the Office of Children and Youth and Family is to be notified. Along with the investigation, the member’s primary concern is for the safety and welfare of the child.
POLICE DEPARTMENT

AUTHORIZATION TO SEIZE FIREARMS/WEAPONS

I, ______________________________________________, authorize Police to seize all firearms/weapons from the premises or motor vehicle described as

__________________________________________________________________
__________________________________________________________________

I am not unduly under the influence of drugs and/or alcohol.
I am giving this written permission voluntarily and without threats, pressures, coercion or promises of any kind being made to me.
Police are authorized by me to seize all firearms/weapons.

Print Name____________________________________
Signature______________________________________
Location ______________________________________
Date & Time___________________________________

Witnesses:
Police Officer____________________________________________________________
Police Officer_____________

Attachment #1
VOLUNTARY CONSENT TO SEARCH

I, ____________________________________________, having been informed of my constitutional rights not to have a search made of myself, the premises or motor vehicle mentioned below without a search warrant and, my right to refuse to consent to such search, and that I may revoke my consent to search at any time, hereby authorize Police to conduct a complete search of my person, premises or motor vehicle described as________________________________________________________

These Police Officers are authorized by me to take any letters, papers, materials or other property, which is contraband, or may be used as evidence in criminal proceedings.

I am not unduly under the influence of drugs and/or alcohol.
I am giving this written permission voluntarily and without threats, pressures, coercion or promises of any kind being made to me.

Print Name____________________________________
Signature______________________________________
Location ______________________________________
Date & Time___________________________________

Witnesses:
Police Officer________________________________________________________
Police Officer_________________________________________________________________
POLICE DEPARTMENT

MIRANDA RIGHTS WARNING

PLACE _______________________________________________________

DATE & TIME ________________________________________________

(1) You have the right to remain silent.
(2) Anything you say can and will be used against you in a court of law.
(3) You have the right to talk to an attorney and have him/her present with you while you are being questioned.
(4) If you cannot afford to hire an attorney, one will be appointed to represent you free of charge before any questioning, if you wish.
(5) You can decide at any time to exercise these rights and not answer any questions or make any statements.

WAIVER

I am not unduly under the influence of drugs and/or alcohol.

I am making this waiver voluntarily and without threats, pressures, coercion or promises of any kind being made to me.

I understand my rights.

Signature_____________________________________________________

I certify the above statements were read to________________________________ before he/she was questioned.

Police Officer ________________________________________________

Police Officer ________________________________________________

Attachment #3
CONFIDENCE IN LAW ENFORCEMENT ACT

53 P.S. § 752.1

Purdon's Pennsylvania Statutes and Consolidated Statutes Annotated Currentness

Title 53 P.S. Municipal and Quasi-Municipal Corporations
Part I. General Municipal Law
*Chapter 8. Public Officers and Employees (Refs & Annos)
*Article VI-B. Confidence in Law Enforcement Act

§ 752.1. Short title

This act shall be known and may be cited as the Confidence in Law Enforcement Act.

CREDIT(S)


HISTORICAL AND STATUTORY NOTES

2007 Electronic Update
Act 2004-2 legislation
Sections 6 to 8 of 2004, Jan. 29, P.L. 4, No. 2, effective July 1, 2004, provide:

"§ 6. Repeal. All acts and parts of acts are repealed insofar as they are inconsistent with this act.

"§ 7. Construction. This act may not be modified or supplemented unless by order of a court or an act of the General Assembly.

"§ 8. Applicability. This act does not apply to convictions occurring before the effective date of this act."

Title of Act:

An Act prohibiting employment of certain individuals as law enforcement officers; requiring suspension of law enforcement officers charged with certain crimes; and establishing dismissal procedures for law enforcement officers convicted of certain crimes. 2004, Jan. 29, P.L. 4, No. 2.

53 P.S. § 752.2. Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commonwealth agency." An executive agency, an independent agency, a State-affiliated entity or the General Assembly.

"Conviction." An adjudication of guilt including the imposition of a sentence.

"Executive agency." The Governor and each department, board, commission, authority and other officer and agency of the Commonwealth. The term does not include a court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies or an independent agency or State-affiliated entity.
"Independent agency." A board, commission or other agency or officer of the Commonwealth which is not subject to the policy supervision and control of the Governor. The term does not include a State- affiliated entity, a court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, a State-related institution, political subdivision or a local, regional or metropolitan transportation authority.

"Law enforcement officer." A member of the Pennsylvania State Police Force or an individual employed in a position requiring certification pursuant to 53 Pa.C.S. Ch. 21 (relating to employees).

"Serious misdemeanor." A criminal offense for which more than one year in prison can be imposed as a punishment.

"State-affiliated entity." A Commonwealth authority or a Commonwealth entity. The term includes the Pennsylvania Turnpike Commission, the Pennsylvania Housing Finance Agency, the Pennsylvania Municipal Retirement System, the Pennsylvania Infrastructure Investment Authority, the State Public School Building Authority, the Pennsylvania Higher Educational Facilities Authority and the State System of Higher Education. The term does not include a court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, a State-related institution, political subdivision or a local, regional or metropolitan transportation authority.

"State-related institution." The Pennsylvania State University, the University of Pittsburgh, Lincoln University or Temple University.

53 P.S. § 752.3 Prohibition against employing certain persons

A Commonwealth agency, State-related institution, political subdivision, municipal authority, local, regional or metropolitan transportation authority or any other person shall not employ or continue to employ an individual as a law enforcement officer when the individual has been convicted of any of the following:

(1) An offense graded a felony or a serious misdemeanor.
(2) An offense in another jurisdiction, state, territory or country in accordance with the laws of that jurisdiction, state, territory or country, and the offense is equivalent to an offense specified in paragraph (1) regardless of its grading in that jurisdiction, state, territory or country.

53 P.S. § 752.4

Except in the case of a member of the Pennsylvania State Police, a law enforcement officer charged with an offense that would prohibit employment under section 3 [FN1] shall be immediately suspended from employment as a law enforcement officer until final disposition of the charge or upon acceptance into a program of Accelerated Rehabilitative Disposition, whichever occurs first. In the case of a member of the Pennsylvania State Police, a law enforcement officer charged with an offense that would prohibit employment as such under section 3 shall immediately be suspended from employment until final disposition of the charge or upon acceptance into a program of Accelerated Rehabilitative Disposition, whichever occurs first. If a judge terminates the participation of a law enforcement officer in a program of Accelerated Rehabilitative Disposition for an offense that would prohibit employment under section 3 prior to completion in accordance with Pa.R.Crim.P. No. 318 (relating to procedure on charge of violation of conditions), the suspension previously imposed shall be reinstated until final disposition of the charge.
53 P.S. § 752.5  Termination of employment

(a) General rule.--An employer of an individual who is a law enforcement officer and who is or becomes ineligible for employment as a law enforcement officer pursuant to section 3 [FN1] shall immediately terminate the employment of the individual as a law enforcement officer.

(b) Certified copy of conviction.--At any termination proceeding, the introduction of a certified copy of a conviction indicating that a law enforcement officer has been convicted of an offense that would prohibit employment under section 3 shall, in and of itself, be sufficient evidence to justify the termination of the law enforcement officer.

CREDIT(S)


[FN1] 53 P.S. § 752.3.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update
Act 2004-2 legislation

Sections 6 to 8 of 2004, Jan. 29, P.L. 4, No. 2, effective July 1, 2004, provide:

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"§ 8. Applicability. This act does not apply to convictions occurring before the effective date of this act."

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END OF DOCUMENT
RESOURCES LIST

Resources for Domestic Violence and *PSVI Victims
Counseling and Shelter for Victims and Children

Due to the confidential nature of the work and the need to maintain safety and security, domestic violence programs do not publish the addresses of their shelters or safe homes. The hotline number is the key to accessing all the shelter services.

City of Pittsburgh and Allegheny County
Women's Center & Shelter of Greater Pittsburgh
24 Hour Hotline: (412) 687-8005
Shelter Intake and Crisis Counseling 24 hours
http://trfn.clpgh.org/womenscenter

Crisis Center North
24 Hour Hotline 412-364-5556
Safe Home Intake and Crisis Counseling 24 hours

Alle-KiskiValley - Tarentum
Alle-KiskiAreaHopeCenter
24 Hour Hotline: (724) 224-1266 Toll Free (888) 299-4673
Shelter Intake and Crisis Counseling 24 hours
http://www.akhopecenter.org/
E-mail: hopecenter@akhopecenter.org

*Center For Victims
24 Hour Hotline 1-866-644-2882
http://www.centerforvictims.org

*Pittsburgh Action Against Rape
PAAR
24 Hour Hotline: 1-866-363-7273
www.paar.net

Attachment #5
The Allegheny County Chiefs of Police Association

SAMPLE
STORAGE AND PRESERVATION POLICY
FOR SEXUAL ASSAULT EVIDENCE
PURSUANT TO ACT 27

In Partnership With
The Allegheny County District Attorney’s Office

OCTOBER-2016
Pursuant to the Sexual Assault Testing and Evidence Collection Act (SATEC) Act, 35 P.S. §§ 10172.1 – 10172.4, local law enforcement agencies must take possession of sexual assault evidence obtained by a health care facility within 72 hours of being notified of its existence. For those cases in which the victim has provided written notice of consent to the forensic testing, the law enforcement agency must submit evidence awaiting testing to an approved laboratory within 15 days. For those cases in which the victim has not provided consent to the testing, the evidence must be preserved and stored for a period of no less than two years, unless consent is provided before that period. See: 35 P.S. § 10172.3(c)

This policy provides guidelines for optimal storage conditions for the preservation of sexual assault evidence, and applies in all cases regardless of whether or not a victim has consented to forensic testing. While there are many factors which may affect a law enforcement agency’s ability to meet and maintain such conditions, every effort should be made to comply with these best practices for long term storage. It should be noted that deviation from these optimal conditions will not preclude laboratory testing at a future time, but may impact on the ability of a laboratory to successfully analyze any evidence.

When a law enforcement agency takes possession of the sexual assault evidence from the health care facility, the Sexual Assault Kit (SAK) must be in a sealed condition. The evidence seal should remain intact and only broken by laboratory personnel for the purpose of testing the contents of the kit. In general, items typically collected in the SAKs manufactured in compliance with the minimum standards\(^1\) as provided by the PA Department of Health, pursuant SATEC, should be treated the same as dry biological stained items and stored in a Temperature Controlled setting (see definitions, below). However, to ensure proper storage conditions are met, the following information should be obtained by the law enforcement agency prior to taking possession of the SAK:

- Does the SAK contain any liquid blood samples?
- Does the SAK contain any urine samples?
- Does the SAK contain any wet items that cannot be dried (e.g., tampons, used condoms)?

If the SAK contains any of these three types of items, then the entire SAK should be stored in accordance with that item’s storage recommendation (e.g., if the SAK contains liquid blood, the entire kit should be refrigerated).

\(^1\) Under 28 Pa. Code § 117.52(a)(1) (relating to minimum requirements for sexual assault emergency services), all hospitals providing sexual assault emergency services under 28 Pa. Code §§ 117.51—117.58 (relating to sexual assault victim emergency services) "shall utilize a rape kit that complies with the minimum standard requirements developed by the Department or that is otherwise approved by the Department under the [act]."
Long term storage conditions, as described below, should be maintained for evidence retained longer than 72 hours to preserve evidence integrity. Ideally, evidence should be stored under these conditions as soon as practicable once in the possession of law enforcement.

Long-Term Storage Conditions Matrix

<table>
<thead>
<tr>
<th>Type of Evidence</th>
<th>Frozen</th>
<th>Refrigerated</th>
<th>Temperature Controlled</th>
<th>Room Temperature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquid blood</td>
<td>Never</td>
<td>Best</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Urine</td>
<td>Best</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dry biological stained item</td>
<td></td>
<td>Best</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hair</td>
<td></td>
<td>Best</td>
<td>Acceptable</td>
<td></td>
</tr>
<tr>
<td>Swabs with biological material</td>
<td></td>
<td></td>
<td>Best (dried)</td>
<td></td>
</tr>
<tr>
<td>Buccal swabs</td>
<td></td>
<td>Best</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DNA Extracts</td>
<td>Best (liquid)</td>
<td>Acceptable (liquid)</td>
<td>Acceptable (dried)</td>
<td></td>
</tr>
<tr>
<td>Wet items (if they cannot be dried)</td>
<td>Best</td>
<td>Acceptable</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Definitions:

*Frozen*: temperature is maintained thermostatically at or below -10°C (14°F).

*Refrigerated*: temperature is maintained thermostatically between 2°C and 8°C (36°F and 46°F) with less than 25% humidity.

*Temperature Controlled*: temperature is maintained thermostatically between 15.5°C and 24°C (60°F to 75°F) with less than 60% humidity.

*Room Temperature*: temperature is equal to the ambient temperature of its surroundings; storage area may lack temperature and humidity control methods.

---

PROPERTY SEIZURE RECEIPT & NOTIFICATION FORM

1. _____________________________________________________________________________

2. ______________________________________________________________________________

3. ______________________________________________________________________________

4. ______________________________________________________________________________

5. ______________________________________________________________________________

6. ______________________________________________________________________________

7. ______________________________________________________________________________

8. ______________________________________________________________________________

9. ______________________________________________________________________________

10. ________________________________________________________________________________

NOTICE OF YOUR LEGAL RIGHT FOR RETURN OF SEIZED PROPERTY

If property was taken from you, whether or not the seizure was executed pursuant to a warrant, you may file a motion for return of the property on the ground that you are entitled to the lawful possession of the property. **This written motion must be filed in the Court of Common Pleas for Allegheny County, at the Allegheny County Courthouse, 436 Grant Street, Pittsburgh, PA 15219.** The Court will decide whether your property will be returned. If your motion is granted, your property will be returned to you unless the Court determines that the property is contraband. If your property is determined to be contraband, then the Court may order that your property be forfeited. You may file a motion for a return of property on your own at the above address or, take this paper to a lawyer. If you do not have or know a lawyer, you may contact the **Lawyer Referral Service at the Allegheny County Bar Association, 920 City-County Building, Pittsburgh, PA 15219, (412-261-0518).**

I acknowledge that the items listed above were SEIZED / VOLUNTARILY RELINQUISHED and that I was given notice on my legal right for return of the property.

Print Name__________________________ Signature__________________________

PROPERTY OWNER

PROPERTY OWNER

Location____________________________

Officer______________________________ Badge #________________

Date/Time____________________________ Witness________________

Appendix D
SEIZURE/RECEIPT FORM - NOTICE OF LEGAL RIGHTS

General Instructions for Appendix D

This form is to be used to document any evidence/property, either seized or voluntarily relinquished to this department. An example of the use of this form would be firearms/weapons relinquished voluntarily following a domestic dispute or seized pursuant to PA Crimes Code Section 2711.

The completed form (original) shall be attached to the initial report filed by the assigned officer.

The form provides detailed instructions to the owner regarding the procedure he/she must follow to reclaim property seized by the police during the investigation of an incident.

Form Preparation Instructions

1. In the blank space following "Complaint #", enter the appropriate complaint number assigned to the incident.

2. The numbered spaces shall indicate a detailed description of the evidence/property seized or relinquished, utilizing one numbered space per item. The description shall be as detailed as possible, including make, model number, serial number, color, size, any significant markings, etc., if applicable.

3. Circle either "Seized" or "Voluntarily Relinquished", whichever applies.

4. In the blank space following “NOTIFICATION OF LEGAL RIGHTS FOR RETURN OF SEIZED PROPERTY”, print the name of the property owner, or custodian of the property.

5. The owner/custodian of the evidence/property shall be asked to sign where indicated on the bottom of the form. If the owner/custodian refuses to sign the form, simply indicate “Refused to sign.”

6. Fill in the exact location/address items were seized/relinquished from.

7. In the blank space following “Officer”, the officer assuming custody of the evidence/property shall sign his/her name and badge number.

8. Fill in the date and time.

9. If a witness to the signatures is available, i.e., another officer, etc., the witness shall affix his/her signature and date on the last line, as specified.
**FOREWORD**

The basic materials in this pamphlet were reproduced by the Allegheny County Chiefs of Police Association with permission from Deputy Chief Ondra Berry of the Reno NV. Police Department. The guidelines have been modified, when appropriate, to reflect the operations of the various MUNICIPAL Police Departments in Allegheny County. It is designed to encourage cooperation and improve relations between the police and the citizens that we serve in the culturally diverse communities of Allegheny County.

The information contained in this pamphlet is for your information and assistance. If you should have any additional questions about what the police can and cannot do, please contact your local police department or the District Attorney’s Office.

**IT COULD HAPPEN TO YOU...**

What is your name?
Where do you live?
Do you have any identification?

These are simple questions that under certain circumstances police officers have the right and sometimes the obligation to ask. They can be answered easily by almost everyone. However, when a police officer asks these questions, it could cause problems for the police officer and YOU. Most of the time there is a reason why the officer is asking you such questions even though it may seem to you at the time that there isn’t a reason.

The officer may be investigating a complaint phoned into the police by someone in the neighborhood. The officer may have been informed by the police radio that a crime has just occurred in the area. For one reason or another, you may be the person he or she suspects may be involved. You may have knowledge that will help the officer in the investigation, or the officer may think you are in need of assistance or help.

The officer has a responsibility and an obligation to obtain pertinent information to resolve any calls or incidents that he or she is involved in. Part of the investigative process is to ask questions that are relevant to the information the officer has received regarding the assignment. If you overreact to the officer’s questions, you may create an even more serious situation.

We will attempt to explain what rights you have, things you should remember and what you can expect when a police officer starts asking you questions. ......................

**IF YOU ARE STOPPED BY THE POLICE IN YOUR CAR...**

While you are driving a car, if a police officer has reasonable suspicion or probable cause to believe that a violation of the Vehicle Code has been committed or a crime has occurred, you may be pulled over. You will probably be asked to show your driver’s license, the registration to the vehicle, and proof that the vehicle is insured. You must comply with these requests. The best thing to do in this situation is to pull over, stay cool and calm and remain in your car, unless told to do otherwise by the police officer(s). If you are stopped at night, turn on your dome light and show the officer that there is nothing wrong, or any reason to fear for his or her safety. It is best not to make any sudden movement or do anything that would give the officer a reason to search further. Having your light on and keeping your hands on the steering wheel will usually put the officer’s mind at ease. Remember, the officer cannot read your mind, he or she does not know if you’re a law-abiding citizen or a criminal, and unfortunately for his or her safety, must assume the worst case scenario at first. Only, when you are asked for your ID, should you go about getting it.

At this point, you may start to explain or question what you were doing that caused you to get stopped, but that is as far as you should take it. There is a chance that the officer will write you a ticket or warning notice for a traffic violation. When the officer asks you to sign the ticket or warning notice, it is not an admission of guilt. You are simply acknowledging that you received it. If you refuse to sign, the officer will still issue the ticket but will mark it "Refused". The officer may legally start to check your car for equipment code violations under the Vehicle Code. Be careful about how you protest. This is not the place to argue your case. If you feel that you are getting a ticket for something you didn’t do or for something that is not fair, you should take your protest to court and explain your case to the Judge. Just because the officer gives you a ticket, does not automatically mean that you are guilty, or will be found guilty, or that you will have to pay a fine. Remember, in America, you are innocent until proven guilty. You have the right to go to Court and to have the Judge hear your explanation, and if you don’t agree with the Judge’s decision, you can appeal.

**IF YOU ARE STOPPED BY THE POLICE ON THE STREET...**

Most of the problems that you may have with the police can be avoided at the time they first stop and talk with you.

Remember, they think they have a reason (reasonable suspicion or probable cause) to stop and ask you some questions.

When the officer(s) approaches you, you should stop, and again, remain cool and calm. There are many factors that a police officer will take into consideration when he or she is observing you and thinks you may be breaking the law or doing something suspicious. Every situation is different and the officer will usually consider the following factors:

1. Do you appear to be running away and a crime has just been reported in the area?
2. Are you hanging around with some people who are under police investigation for one thing or another?
3. Are you at or near where a crime has just been reported?
4. Are you somewhere where the officer thinks people have no reason to be at that time of day or night and your presence is suspicious, and you act even more suspiciously when the officer sees that you have spotted him or her?
5. The officer thinks that you may have stolen property in your possession.
6. The officer legally stops you on the street while driving in your car and you refuse to answer simple questions, give false or evasive answers or make contradicting statements.
7. Someone has pointed you out as a possible suspect involved in a crime.
8. Are you hanging around places and people who are using or selling drugs?
9. Are you using obscene language, acting disorderly, or drunk and/or high in a public place?

While all of these things are taken into consideration by the officer in determining whether he or she should stop you or ask you more questions, remember the officer has the right and the obligation to find out what is going on. If the officer feels, after talking to you, that you have committed a crime and places you under arrest, he or she will inform you that: you have the right to remain silent; anything you say can and will be used against you in court; you have the right to talk to a lawyer for advice before you answer any questions and to have a lawyer with you during questioning; if you cannot afford a lawyer, one will be appointed for you before any questioning, if you wish. The officer will ask you if you understand your rights, and are you willing to answer some questions, or make a statement. If you don’t want to talk after you have been informed of your rights, then you DO NOT have to.
IF THE POLICE COME KNOCKING AT YOUR DOOR...

If the police knock at your door and ask to come into your home, you do not have to let them in unless they have a warrant that has been signed by a judge, or under emergency circumstances, or the officer is in pursuit of a suspect. Ask to see the warrant. If it is an ARREST WARRANT, make sure that you look at the name on the warrant to be sure the police have the right person. If it is a SEARCH WARRANT, make sure it is for your specific address and check to see what is listed on the warrant to be searched for in your home or location. The warrant gives the officer(s) the legal right to temporarily seize the listed property on the warrant.

The police may also search without a warrant whenever they have arrested a person. They may search his or her person and the immediate area where the arrest was made.

The police may also search after consent is given. If you object to their request to search, be sure to make it clear that you do not agree to any kind of search. They may also search when there is an emergency situation (for example, someone screaming for help inside your home) or when they are chasing you or someone else into your home (hot pursuit).

If the police do not have a warrant, you may, but do not have to let them in, UNLESS they demand to come in. Perhaps you can settle this matter at the door, if they do insist on coming in over your objections then:

- Ask to see identification or a police badge.
- Let them in only after they demand to come in.
- If you object, then make sure you tell them that you DO NOT consent to any search.
- Remember the badge numbers and the names of the officers. Write it all down. The officers usually have business cards, feel free to ask the officer(s) for one.

REMEMBER

1. If the police have stopped you, they THINK they have a reason to do so.
2. It is best to be cool and calm and identify yourself.
3. If an unmarked car signals you to pull over at night and you are not sure the person is a Police Officer, put your 4-way flashers and dome light on and slowly drive to the nearest well-lit public area. Unmarked police cars used for traffic stops are equipped with RED & BLUE lights.

4. DON'T THREATEN OR TOUCH THE OFFICERS. Keep your hands and your feet to yourself, doing otherwise will probably get you arrested. DON'T MAKE THE SITUATION WORSE THAN IT ALREADY IS.

5. Under Pennsylvania law, you may not use force to resist a legal or illegal arrest. Remember you have the right to contest the validity of your arrest later on in court.

6. If you are given a ticket, you have a right to a hearing in front of the District Justice, if you do not agree with the District Justice's decision you have a right to appeal.

*7. You have the right to audio & video record police activity as long as you can do so safely and do not interfere with an officer’s lawful duties.

8. If you are arrested you have the right to a preliminary hearing, in which the police must show why you were arrested.

9. If you feel you were legitimately treated unfairly by a MUNICIPAL POLICE OFFICER(S) you have the right to file a complaint with the Chief of Police or Superintendent of Police. If you are dissatisfied with the Chief's or Superintendent’s response, you can file a complaint with the Elected Officials who oversee the Police Department such as the Mayor, Police Commissioner or Township Manager. If you are dissatisfied with that response, you have the right to file a complaint with the Allegheny County District Attorney's Office, and if you choose, you can pursue a civil action.

IMPORTANT NUMBERS

ALLEGHENY CO. DISTRICT ATTORNEY’S OFFICE
412-350-4400

ALLEGHENY CO. PUBLIC DEFENDERS OFFICE
412-350-2401

FEDERAL BUREAU OF INVESTIGATIONS
412-432-4000

LOCAL POLICE DEPARTMENT
BLUES PAGES OF PHONE BOOK

PA. HUMAN RELATIONS COMMISSION
412-565-5395

U.S. ATTORNEY’S OFFICE
412-644-3500

WHAT TO DO... WHEN STOPPED BY THE POLICE

IN PARTNERSHIP WITH THE

ALLEGHENY COUNTY CHIEF EXECUTIVE

ALLEGHENY COUNTY DISTRICT ATTORNEY’S OFFICE

FRATERNAL ORDER OF POLICE
LODGE # 91

PENNSYLVANIA ATTORNEY GENERAL’S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

UNITED STATES ATTORNEY’S OFFICE

AND

OUR COMMUNITIES

The Allegheny County Chiefs of Police Association

MODEL FORM

Waiver of
Out of County Arraignment

In Partnership With
The Allegheny County District Attorney’s Office

OCTOBER-2018
WAIVER

The undersigned acknowledges that pursuant to the Pennsylvania Criminal Procedures Rue 517, having been arrested, in a court case, outside of the judicial district where the warrant of arrest was issued, he/she is to be taken before the proper issuing authority in the judicial district of the arrest for the purpose of posting bail for his/her appearance at a preliminary arraignment before the issuing authority in the judicial district where the warrant was issued.

Having been advised of the procedure required under said rules, the undersigned hereby waives the above procedure and consents to be taken, without unnecessary delay, before the proper issuing authority in the judicial district where the warrant was issued, for the purpose of immediate preliminary arraignment.

Signed this___________day of__________, 20______.

____________________________________________________________________________________
Defendant Signature                                      Printed Name

____________________________________________________________________________________
Officer Signature                                      Printed Name

____________________________________________________________________________________
Witness Signature                                      Printed Name
ACCPA-DA MODEL

Undercover Criminal Investigations Sexual Conduct Guidelines:

Below are general sexual conduct guidelines for municipal officers conducting criminal investigations.

A. Officers conducting undercover criminal investigations are prohibited from engaging in sexual activity with any person for the purpose of furthering the investigation. This prohibition is enacted in recognition of the need to protect the other person's and officer's physical well-being, as well as ensuring the Officer's and Department's image is not demeaned.

B. The *only* justification for engaging in sexual activity with another person in the course of an undercover criminal investigation during the performance of an Officer’s lawful duty is if the Officer’s personal safety is in immediate jeopardy.

C. Undercover criminal investigations include, but are not limited to, drugs, gambling, out-call services, massage parlors, and/or prostitution suppression details in general.

D. Sexual activity is defined as sexual intercourse, oral sex, anal sex, penetration of the vagina or anus using any part of the human body or a physical object, or manual stimulation resulting in orgasm.

E. Prior to conducting an investigation of an individual or business believed to be engaged in illegal conduct involving sexual activity, the officer shall:

1. Obtain prior approval from a Supervisor.
2. Conduct a Pre-Detail briefing.
3. Attempt to devise a method/ploy, which will enable the Officer to successfully complete the investigation without engaging in sexual activity with another person.
4. Never conduct this type of investigation/detail (alone) without adequate backup.
5. Conduct a Post-Detail briefing.

F. An Officer conducting an undercover investigation who engages in sexual activity with another person pursuant to Section B shall:

1. Immediately notify their supervisor of the circumstances surrounding the incident.
2. Prepare a To/From to the Chief of Police detailing the circumstances surrounding the incident. The correspondence shall include the incident number of the Department investigative report, the name of the other person involved, the date, time, and location where the sexual activity occurred, the type and extent of sexual activity, and the names of any witnesses.
3. If a member is involved in investigative activity, which included the release or exchange of bodily fluids, they shall obtain medical testing for sexually transmitted diseases as soon as practical.