

## AUTOMOBILE SEARCH AND SEIZURE

### 1. Stop

Obviously, the first issue with any search stemming a traffic stop is whether or not the stop is valid. Recently, the Supreme Court gave passengers standing to the initial stop and detention of the vehicle. Brendlin v. California, 127 S. Ct. 2400 (2007). Of course, drivers also have standing.

### 2. Standing

Drivers and passenger owners of vehicles will have standing in any search of the vehicle, unless the driver is an unauthorized driver of a rental vehicle. Colin v. State, 101 Md. App. 395 (1994). All other passengers do not have standing to the search of the vehicle. Cheek v. State, 81 Md. App. 171 (1989) and Butler v. State, 46 Md. App. 317 (1980). The only exception would be for taxicab passengers. Bates v. State, 64 Md. App. 279 (1985).

### 3. Search Incident to Arrest

Once there is a valid arrest of an occupant of a vehicle, the officer may search the entire glove compartment of the vehicle as a search incident to arrest. The entire compartment, including locked containers, is considered the wingspan of the arrestee for search incident to arrest purposes. New York v. Belton, 453 U.S. 454 (1981). This is true even if the occupant has been placed in handcuffs and cannot physically get back into his vehicle. State v. Fernon, 133 Md. App. 41 (2000).

### 4. Probable Cause

Unlike searches incident to arrest, once probable cause is established, you may search anywhere in the vehicle where the item may be, including the trunk and containers found within the vehicle. California v. Acevedo, 500 U.S. 565 (1991); Wyoming v. Houghton, 526 U.S. 295 (1999) and Wilson v. State, 174 Md. App. 434 (2007).

#### A. PC Issues

1. Odor - odor of controlled dangerous substances, by canine or human, is probable cause to search the vehicle. For human cases, see United States v. Johns, 469 U.S. 478 (1985); State v. Harding, 166 Md. App. 230 (2005); Ford v. State, 37 Md. App. 373 (1977); State v. James, 87 Md. App. 39 (1991) and Wilson v. State, 174 Md. App. 434 (2007). For canine cases, see canine discussion below.

2. Open view - evidence seen by officer looking through the window of a vehicle, parked or not, with or without flashlight, establishes probable cause. Pryor v. State, 122 Md. App. 671 (1998) and Scales v. State, 13 Md. App. 474 (1971).

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3. Informant Information - case by case basis. Depends on corroboration and prior proven veracity of the informant. (The standards of probable cause and reasonable suspicion are no different than any other search and seizure case and are therefore not further discussed in this training). You may want to review Illinois v. Gates, 462 U.S. 213 (1983); Adams v. Williams, 407 U.S. 143 (1972); Alabama v. White, 496 U.S. 325 (1990); Smith v. State, 161 Md. App. 461 (2005); Wilson v. State, 150 Md. App. 658 (2003); Carter v. State, 143 Md. App. 670 (2002); and Pryor v. State, 122 Md. App. 671 (1998).

#### 5. Frisk

Believe it or not, you can frisk a vehicle under the same theory that you can frisk a person for weapons. If the officer makes observations of a weapon or furtive movements of occupants consistent with hiding weapons, the officer can frisk the vehicle, looking into the areas of the vehicle where the occupants would generally have immediate control and could contain a weapon was seen or where the occupants were seen reaching. This includes looking in containers. Michigan v. Long, 463 U.S. 1032 (1983). Courts also recognize that traffic stops are fraught with danger and consider that fact in the pat down of occupants. Matoumba v. State, 162 Md. App. 39, aff'd at 390 Md. 544 (2006) and Russell v. State, 138 Md. App. 638 (2001).

#### 6. Exigency

A. No warrant is required to search a vehicle. Carroll v. United States, 267 U.S. 132 (1925). This is true even if the car is not being driven at the time. The only exception is when the probable cause existed for weeks prior to the seizure, the police have custody of the car, and all owners or potential drivers are in police custody. Coolidge v. New Hampshire, 403 U.S. 443 (1971).

B. The timing of the warrantless search of an automobile is different than for search incident to arrest. While a search incident to arrest has to be substantial contemporaneous with the arrest, a probable cause search may occur once the vehicle is removed from the scene and immobilized. As long as the exigency existed at the time of the initial seizure of the vehicle, the removal and later search is valid. Chambers v. Maroney, 399 U.S. 42 (1970); Smith v. State, 161 Md. App. 461 (2005) and Manno v. State, 96 Md. App. 22 (1993).

C. If it has wheels, it is an automobile. No one cares if the Defendant lives in the thing. California v. Carney, 471 U.S. 386 (1985) and Doering v. State, 313 Md. 384 (1988).

#### 7. Consent

In Maryland, the officer has to return the license and registration to the driver and tell him he is free to go in order to ask for consent (this flies in the face of the Supreme Court and Maryland law relating to everything other than vehicles). If the officer questions him without telling him he is free to go, Maryland thinks it is a second stop. Ferris v. State, 355 Md. 356 (1999).

If the officer does not return the license and registration, then Maryland thinks it is not a voluntary consent. See State v. Green, 375 Md. 595 (2003) for the only way to win this in Maryland.

#### 8. Canines

A. A canine sniff is not a search. United States v. Place, 462 U.S. 696 (1983). The occupants of a vehicle have no expectation of privacy in the odor of controlled dangerous substances within the vehicle. Therefore, no particular suspicion is required for the sniff to occur. Illinois v. Cabell, 543 U.S. 405 (2005). The fact that the dog alert could be to the residual odor of controlled dangerous substances does not help the Defendant. State v. Cabral, 159 Md. App. 354 (2004).

B. The alert of a well-trained narcotics dog to the presence of the odor of a controlled dangerous substance is probable cause to search the vehicle. Place; United States v. Dovali-Avila, 895 F. 2d 206 (5<sup>th</sup> Cir. 1990); In Re Montrail M., 87 Md. App. 420 (1991) and Wilkes v. State, 364 Md. 554 (2001).

\* C. The alert of a well-trained narcotic dog is reason to arrest and search the driver, even if no drugs are found in the car. State v. Ofori, 170 Md. App. 211, cert. denied 396 Md. 13 (2006). (Ofori is an excellent discussion of numerous canine issues).

D. What to do with passengers is highly debatable. In State v. Wallace, 372 Md. 137 (2002), the Court of Appeals ruled that you could not search a passenger based upon a canine alert. This seems to overrule what the Court alleged was *dicta* in State v. Funkhouser, 140 Md. App. 696 (2001), which stated that you could search everybody in the car. Wallace was based almost entirely on Pringle v. State, 370 Md. 525 (2002), which was overturned in Maryland v. Pringle, 540 U.S. 366 (2003). Ofori points out that Wallace is highly suspect as a result. Other courts have noted the flimsiness of the Wallace decision. State v. Reha, 12 Neb. App. 767 (2004).

If the officers find drugs in the car after the alert, Pringle obviously allows the arrest of the passengers. If there are not drugs in the car, I have instructed the officers to ask the passengers for consent. If no consent is granted, the officers search the passengers and we argue that Wallace is meaningless, which I think is the case.

\* E. The timing of the canine sniff is an issue in every case. Often it is the only issue raised by the defense. If the stop is conducted without reasonable suspicion or probable cause, then the canine sniff must occur during the time it takes to complete the ticket or warning. Illinois v. Cabell, 543 U.S. 405 (2005); Wilkes v. State, 364 Md. 554 (2001); Pryor v. State, 122 Md. App. 671 (1998) and McKoy v. State, 127 Md. App. 89 (1999). In other words, you may not prolong the traffic stop unless you have reasonable suspicion or probable cause.

The officers have the right to request license and registration and can even ask passengers for license information. United States v. Soriano-Jarquín, 2007 U.S. App. LEXIS 16402 (4<sup>th</sup> Cir. 2007). There is no set length of time it takes to complete a standard traffic stop. It depends on how long it takes to conduct checks of drivers' licenses, vehicle registrations, whether the vehicle has been reported stolen and whether any warrants are active for any occupants. Wilkes, Blyndoss v. State, 391 Md. 462 (2006). In Blyndoss, the fact that the computer was down and it took more than thirty minutes to obtain the information needed to complete the stop was held to be unconstitutionally impermissible.

If there is probable cause that there are controlled dangerous substances within the vehicle, then the officer can wait a long time for the dog. (see exigency discussion above). Of course, he also does not need the dog.

If there is reasonable suspicion to believe that there are controlled dangerous substances within the vehicle, then the police may pursue the investigation and the extension of the time of the stop is permissible. State v. Ofori, 170 Md. App. 211, cert. denied 396 Md. 13 (2006); Smith v. State, 161 Md. App. 461 (2005); Wilson v. State, 150 Md. App. 658 (2003); Carter v. State, 143 Md. App. 670 (2002). The question becomes more of due diligence, rather than actual time. If you are in a rural jurisdiction, with less canine units, you are likely to be given more leeway. Just make sure the canine handler does not stop for a cheeseburger on the way.

F. Defense attorneys love to question the qualification of the dog. Some even claim that we need to have the actual trainers in court. Naturally, they are misguided in this belief. Clark v. State, 140 Md. App. 549 (2001), while dealing with cadaver dogs, held that the handler could testify to the canine's training and certification. Terrell v. State, 3 Md. App. 340 (1967) and United States v. Carroll, 710 F. 2d 164 (4<sup>th</sup> Cir. 1983) made similar rulings regarding tracking dogs. The Fourth Circuit in an unpublished decision stated that, if any evidence is necessary to prove the training and experience of the canine unit, then the handler's testimony is sufficient. United States v. Stanley, 2001 U.S. App. LEXIS 1704 (4<sup>th</sup> Cir. 2001). Though unpublished, the case does provide some discussion of other cases around the country and you can at least get the gist of the argument to make. Canine alerts have certainly been used as establishing probable cause for search warrants. Emory v. State, 101 Md. App. 585 (1994) and Fitzgerald v. State, 384 Md. 484 (2004). No evidence of training or reliability has been required for those cases. Probable cause is probable cause. Automobiles provide a warrant exception, but the standard is the same. If a search warrant does not require the trainer, or certified training records, then neither does a hearing related to probable cause of a warrantless search. Nearly every case mentions that the alert of a trained and/or certified drug dog is probable cause. There is no case that states that certified training records need to be introduced. Reliability of the dog may be established by testimony only.

I have attached a memorandum I wrote once when a judge began to buy into a defense attorney's argument. There are many other federal cases. They all say that we win. One last note, the evidence of the cadaver and tracking dogs was offered as substantive evidence, not for probable cause. If the standard is that testimony alone allows evidence

of the dog's alert for substantive proof, it clearly is sufficient to establish probable cause. And remember that hearsay is admissible for probable cause, so the fact that the handler may be relying on hearsay related to the actual certification of the canine is of no consequence.

G. So what if the drug you find is different than one of the odors that the canine alerts to? What if during an execution of a search warrant based upon controlled buys of cocaine, you heroin and no cocaine? What if you smell alcohol on a driver, he fails field sobriety tests, and he turns out to be high and not drunk? What if they handed out law school diplomas to people who turned out to be idiots? Get the picture? Probable cause is probable cause. Evidence is another thing. Convictions are good.

H. Just a reminder that, since we are not dealing with warrants in these cases, that the burden of proof is solely upon us (other than standing). They defense attorney can sit and do nothing other than object until we lay the foundation.

THE PURPOSE OF THIS ORDER IS TO ESTABLISH THE POLICY AND PROCEDURES FOR THE CONDUCT OF ALL MEMBERS OF THE ROCK HALL POLICE DEPARTMENT CONCERNING THEIR PERFORMANCE OF DUTY, THE EXERCISE OF THEIR POLICE POWERS, AND THEIR RELATIONSHIP WITH THE PUBLIC. THIS ORDER CONSISTS OF THE FOLLOWING PARTS:

PART 1:

## **RESPONSIBILITIES AND PROCEDURES FOR MEMBERS OF THE DEPARTMENT**

- A. RESPONSIBILITIES.
- B. GENERAL DUTIES AND CONDUCT.
- C. CONDUCT TOWARD THE PUBLIC.
- D. CONDUCT IN ARRESTING AND THE PROCESSING OF LAW VIOLATORS.
- E. CITIZEN-POLICE RELATIONSHIPS.
- F. CODE OF ETHICS.

### **RESPONSIBILITIES**

1. IT IS THE DUTY AND RESPONSIBILITY OF EACH MEMBER OF THE POLICE DEPARTMENT TO PRESERVE THE PEACE, PROTECT LIFE AND PROPERTY, PREVENT CRIME, APPREHEND CRIMINALS, RECOVER LOST AND STOLEN PROPERTY, AND ENFORCE ALL LAWS AND ORDINANCES OF THE STATE OF MARYLAND AND THE TOWN OF ROCK HALL IN A FAIR AND IMPARTIAL MANNER.
2. IN ACCORDANCE WITH THE LAW, MEMBERS SHALL NOT DISCRIMINATE, EITHER IN THE ENFORCEMENT OF THE LAW, OR IN THE PROVISION OF POLICE SERVICE, ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILY RESPONSIBILITIES, POLITICAL AFFILIATION, PHYSICAL HANDICAP, SOURCE OF INCOME, AND OR PLACE OF RESIDENCE OR BUSINESS.
3. IN ACCOMPLISHING THEIR MISSION, MEMBERS SHALL RECOGNIZE THAT:

THE POWER OF THE POLICE TO FULFILL THEIR FUNCTIONS AND DUTIES IS DEPENDENT ON PUBLIC APPROVAL OF THEIR EXISTENCE, ACTIONS, AND BEHAVIOR AND ON THEIR ABILITY TO SECURE AND MAINTAIN PUBLIC RESPECT.

TO SECURE AND MAINTAIN PUBLIC RESPECT AND APPROVAL MEANS ALSO OBTAINING PUBLIC WILLINGNESS TO COOPERATE IN THE TASK OF SECURING OBSERVANCE OF THE LAW.

THE EXTENT TO WHICH THE COOPERATION OF THE PUBLIC CAN BE SECURED DIMINISHES PROPORTIONATELY THE NECESSITY FOR THE USE OF PHYSICAL FORCE IN ACHIEVING POLICE OBJECTIVES.

THE ULTIMATE GOAL OF POLICE OPERATIONS IS THE ABSENCE OF CRIME AND DISORDER, NOT THE VISIBLE EVIDENCE OF POLICE ACTION IN DEALING WITH THEM.

## **B. GENERAL DUTIES AND PERSONAL CONDUCT**

1. THE PREVENTION OF CRIME BEING THE MOST IMPORTANT FACTOR FROM A POLICE POINT OF VIEW, MEMBERS SHALL FAMILIARIZE THEMSELVES WITH THE LAWS AND REGULATIONS THEY ARE REQUIRED TO ENFORCE.
2. MEMBERS SHALL PROVIDE THEMSELVES WITH MEMORANDUM BOOKS AND SHALL MAKE NOTE OF MATTERS OF INTEREST COMING TO THEIR ATTENTION WITHIN THE SCOPE OF THEIR DUTIES.
3. MEMBERS SHALL CONTINUALLY MAINTAIN A VALID OPERATOR'S LICENSE. ANY CHANGE IN THE MEMBERS LICENSE SHALL BE REPORTED TO THE CHIEF OF POLICE PRIOR TO THE MEMBERS NEXT TOUR OF DUTY.
4. MEMBERS SHALL REPORT FOR DUTY PROPERLY UNIFORMED AND EQUIPPED AND SHALL GIVE ATTENTION TO DISPATCHES, ORDERS, AND INSTRUCTIONS READ AND ISSUED BY THE CHIEF OF POLICE.
5. MEMBERS SHALL BECOME THOROUGHLY ACQUAINTED WITH EVERY PART OF THE TOWN OF ROCK HALL AND ACQUIRE SUCH KNOWLEDGE OF THE RESIDENTS AS WILL ENABLE THEM TO PROMPTLY RECOGNIZE AND FURNISH INFORMATION REGARDING THEM.
6. MEMBERS SHALL GIVE PERSONS OF KNOWN BAD CHARACTER SUCH ATTENTION AS WILL MAKE IT APPARENT TO THE PERSONS THAT THEY ARE UNDER OBSERVATION AND THAT DETECTION WILL FOLLOW THE COMMISSION OF A CRIME AND SHALL NOTE AND APPROPRIATELY REPORT THE PRESENCE OF SUCH PERSONS TO OTHER MEMBERS OF THE DEPARTMENT.
7. MEMBERS SHALL INFORM THEMSELVES AS TO HOUSES IN THE TOWN OF ROCK HALL IN, WHICH VIOLATIONS OF THE LAW ARE BELIEVED TO EXIST AND TAKE APPROPRIATE POLICE ACTION. IF UNCERTAIN ON HOW TO PROCEED, THE FACTS SHALL BE REPORTED TO THE OFFICIAL THEN IN COMMAND.
8. THEY SHALL INVESTIGATE ALL VEHICLES WHICH AROUSE THEIR SUSPICIONS AND NOTE THE LICENSE NUMBER AND ANY OTHER IDENTIFYING CHARACTERISTICS OF SUCH VEHICLE FOR FUTURE REFERENCE.
9. MEMBERS SHALL NOTE AND MAKE PROPER REPORT OF ALL INCIDENTALS COMING UNDER THEIR OBSERVATION IN THE TOWN OF ROCK HALL ( SUCH UNSAFE STRUCTURES; LAMPS NOT ILLUMINATED DURING PRESCRIBED HOURS; PUBLIC PROPERTY FOUND TO BE DEFECTIVE OR BROKEN, SUCH AS DRAINS, PUMPS, FIRE HYDRANTS, SEWERS, WATER PIPES AND DANGEROUS TREES; DANGEROUS HOLES ON PUBLIC OR PRIVATE PROPERTY, AND SHALL INITIATE SUCH MEASURES THAT WILL PROTECT THE PUBLIC INTEREST UNTIL THE CONDITIONS HAVE BEEN PROPERLY CORRECTED.
10. MEMBERS SHALL IMMEDIATELY INVESTIGATE ALL DAMAGE TO PUBLIC

PROPERTY SUCH AS SCHOOLS, STREET LIGHT POLES, ETC. AND MAKE A RECORD OF SAME.

11. MEMBERS SHALL REPORT TO THE PROPER DEPARTMENT OF THE TOWN OF ROCK HALL ANY APPARENT VIOLATIONS OF PLUMBING, BUILDING AND HEALTH ORDINANCES OF THE TOWN OF ROCK HALL.

12. IF MEMBERS OBSERVE ANYTHING WHICH SEEMS TO BE IRREGULAR OR UNSANITARY AND WHICH CANNOT BE REMEDIED AT ONCE, THEY SHALL IMMEDIATELY REPORT THE SAME TO THE TOWN MANAGER AND NOTE SAME.

13. MEMBERS SHALL CONDUCT THEIR PRIVATE AND PROFESSIONAL LIVES IN SUCH A MANNER AS TO AVOID BRINGING DISCREDIT UPON THEMSELVES OR THE DEPARTMENT.

14. MEMBERS SHALL NOT CONDUCT THEMSELVES IN AN IMMORAL, INDECENT, LEWD, OR DISORDERLY MANNER OR IN A MANNER THAT MIGHT BE CONSTRUED BY AN OBSERVER AS IMMORAL, INDECENT, LEWD OR DISORDERLY. THEY SHALL NOT BE GUILTY OF MISCONDUCT, NEGLECT OF DUTY, OR CONDUCT UNBECOMING TO AN OFFICER AND A PROFESSIONAL EVEN THOUGH SUCH CONDUCT IS NOT SPECIFICALLY SET FORTH IN THIS ORDER.

15. MEMBERS SHALL NOT ACCEPT GIFTS OR GRATUITIES FROM ORGANIZATIONS, BUSINESS CONCERNS OR INDIVIDUALS WITH WHOM HE/SHE HAS, OR REASONABLY COULD BE EXPECTED TO HAVE OFFICIAL RELATIONSHIPS ON BUSINESS OF THE TOWN OF ROCK HALL. SIMILARLY, MEMBERS ARE PROHIBITED FROM ACCEPTING PERSONAL OR BUSINESS FAVORS SUCH AS SOCIAL COURTESIES, LOANS, DISCOUNTS, SERVICES, OR OTHER CONSIDERATIONS OF MONETARY VALUE WHICH MIGHT INFLUENCE, OR BE REASONABLY SUSPECTED OF INFLUENCING THEIR DECISIONS AS REPRESENTATIVES OF THE TOWN OF ROCK HALL. IT IS PARTICULARLY IMPORTANT THAT ALL MEMBERS GUARD AGAINST ANY RELATIONSHIPS WHICH MIGHT BE CONSTRUED AS EVIDENCE OF FAVORITISM, COERCION, UNFAIR ADVANTAGE, OR COLLUSION.

16. MEMBERS SHALL NOT ENGAGE IN POLITICAL OR RELIGIOUS DISCUSSION TO THE DETRIMENT OF DISCIPLINE.

17. MEMBERS SHALL NOT SUGGEST, RECOMMEND, ADVISE, OR OTHERWISE COUNSEL CONCERNING THE RETENTION OF AN ATTORNEY OR BONDSMAN TO ANY PERSON COMING TO THEIR ATTENTION AS A RESULT OF POLICE BUSINESS. THIS DOES NOT APPLY WHEN A RELATIVE OF THE MEMBER SEEKS SUCH SERVICE.

18. UNLESS SPECIFICALLY AUTHORIZED BY THE REPORTING MEMBER OR BY AN OFFICIAL DEPARTMENT DIRECTIVE, NO MEMBER, OTHER THAN THE REPORTING MEMBER SHALL SIGN AN OFFICIAL REPORT.

19. MEMBERS SHALL NOT INTERFERE WITH THE CASES OF OTHER MEMBERS, EXCEPT BY CONSENT OF SUCH OTHER MEMBERS, OR THE CHIEF OF POLICE.



20. MEMBERS SHALL REPORT TO THEIR IMMEDIATE SUPERVISOR ANY VIOLATIONS OF THE RULES OF THE ROCK HALL POLICE DEPARTMENT BY ANY MEMBER OF THE FORCE.

21. WHEN QUESTIONED BY SUPERIOR OFFICERS IN CONNECTION WITH MATTERS RELATING TO THE OFFICIAL BUSINESS OF THE POLCE DEPARTMENT, SUBORDINATE MEMBERS SHALL RESPOND TRUTHFULLY. ADDITIONALLY, DURING THE COURSE OF AN INVESTIGATION, ALL MEMBERS SHALL RESPOND TRUTHFULLY TO QUESTIONS BY ANY AGENT OR OFFICIAL CONDUCTING AN INTERNAL AFFAIRS INVESTIGATION, EVEN IF THE INTERNAL AFFAIRS OFFICIAL IS NOT OF SUPERIOR RANK.

22. MEMBERS OF THE POLICE DEPARTMENT EITHER IN UNIFORM OR CIVILIAN ATTIRE SHALL ALWAYS EXERCISE SOUND JUDGEMENT AND TACT WHEN SPEAKING TO, OR IN CONVERSATION WITH OTHER MEMBERS IN CIVILIAN ATTIRE. THIS IS OF THE UTMOST IMPORTANCE IN ORDER TO PREVENT THE INADVERTENT EXPOSURE OF CONFIDENTIAL OR SENSITIVE INFORMATION.

### **C. CONDUCT TOWARDS THE PUBLIC**

1. ALL MEMBERS OF THE DEPARTMENT SHALL BE COURTEOUS AND ORDERLY IN THEIR DEALINGS WITH THE PUBLIC. MEMBERS SHALL PERFORM THEIR DUTIES QUIETLY, REMAINING CALM REGARDLESS OF PROVOCATION TO DO OTHERWISE. MEMBERS SHALL BE ATTENTIVE TO, AND TAKE SUITABLE ACTION ON REPORTS AND COMPLAINTS BY A PRIVATE CITIZEN EXCEPT WHEN CIRCUMSTANCES MAKE IT NECESSARY FOR THEM TO REPORT THE MATTER, OR REFER THE MATTER TO A MORE SUITABLE MEMBER OF THE POLICE DEPARTMENT OR ANOTHER AGENCY. MEMBERS SHALL FULFILL PROPER REQUESTS FOR INFORMATION OR ASSISTANCE, OR AID THE PERSON IN OTHERWISE OBTAINING THE REQUESTED INFORMATION OR ASSISTANCE. MEMBERS SHALL AVOID GIVING THE IMPRESSION THAT THEY ARE EVADING THE PERFORMANCE OF THEIR DUTY OR THAT THEY ARE NOT INTERESTED IN THE PROBLEMS OF PERSONS WHO ARE REFERRED ELSEWHERE FOR SERVICE.

2. MEMBERS SHALL BE COURTEOUS, CIVIL, AND RESPECTFUL TO THEIR SUPERIORS, ASSOCIATES, AND OTHER PERSONS WHETHER ON, OR OFF DUTY. THEY SHALL BE QUIET, ORDERLY, AND ATTENTIVE AND SHALL EXERCISE PATIENCE AND DISCRETION IN THE PERFORMANCE OF THEIR DUTIES. WHEN REQUESTED TO DO SO, THEY SHALL GIVE THEIR NAMES AND IDENTIFICATION NUMBER IN A RESPECTFUL AND POLITE MANNER.

3. MEMBERS SHALL REFRAIN FROM HARSH, VIOLENT, COARSE, PROFANE, SARCASTIC, OR INSOLENT LANGUAGE. MEMBERS SHALL NOT USE TERMS OR RESORT TO NAME CALLING WHICH MIGHT BE INTERPRETED AS DEROGATORY, DISRESPECTFUL, OR OFFENSIVE TO THE DIGNITY OF ANY PERSON.

4. MEMBERS SHALL RESPOND WITHOUT DELAY TO ALL CALLS FOR POLICE ASSISTANCE FROM CITIZENS OR OTHER MEMBERS OF THE DEPARTMENT. EMERGENCY CALLS TAKE PRECEDENCE; HOWEVER, ALL CALLS SHALL BE ANSWERED AS SOON AS POSSIBLE CONSISTENT WITH NORMAL SAFETY PRECAUTIONS AND VEHICLE LAWS. FAILURE TO ANSWER PROMPTLY A CALL FOR POLICE ASSISTANCE, WITHOUT JUSTIFICATION, CONSTITUTES MISCONDUCT.

5. WHEN A MEMBER OF THE DEPARTMENT IS CALLED ON THE TELEPHONE, THEY SHALL RESPOND PROMPTLY WITH THE NAME OF THE AGENCY, THEIR RANK AND SURNAME.

6. NO MEMBER OF THE ROCK HALL POLICE DEPARTMENT SHALL WILLFULLY DEPART FROM THE TRUTH EITHER IN GIVING TESTIMONY, OR IN CONNECTION WITH ANY LEGAL OFFICIAL ORDER RECEIVED BY HIM/HER OR IN HIS/HER OFFICIAL DUTIES.

7. MEMBERS SHALL AVOID ENGAGING IN IDLE CONVERSATIONS ON RACIAL, RELIGIOUS, POLITICAL, OR OTHER CONTROVERSIAL SUBJECTS. THEY SHALL ALSO REFRAIN FROM THE PUBLIC DISCUSSION OF THE MERITS OF ANY LAW OR ORDINANCE.

#### **D. CONDUCT IN ARRESTING AND THE PROSESSING OF LAW VIOLATORS**

1. EXCEPT WHEN IMPRACTICAL, UNFEASIBLE, OR WHERE THEIR IDENTITY IS OBVIOUS, MEMBERS SHALL IDENTIFY THEMSELVES BY DISPLAYING THEIR BADGE OR IDENTIFICATION CARD BEFORE TAKING POLICE ACTION. AT THE TIME OF AN ARREST, THE PERSON ARRESTED SHALL BE ADVISED OF THE REASON FOR THE ARREST.

2. MEMBERS SHALL MAKE DILIGENT EFFORTS TO ARREST OR LOCATE WANTED PERSONS AND TO RECOVER STOLEN AND LOST PROPERTY. THEY SHALL OBSERVE AND INVESTIGATE ALL PERSONS, WHETHER ON FOOT OR IN VEHICLES, WHOSE APPEARANCE, ACTIONS, OR PRESENCE AT A PARTICULAR LOCATION SEEMS SUSPICIOUS.

3. WHEN A MEMBER HAS PROBABLE CAUSE TO BELIEVE THAT A FELONY HAS BEEN COMMITTED AND THAT PERSON OR PERSONS IS GUILTY OF THAT FELONY, THE PERSON OR PERSONS SHALL BE QUESTIONED AND TAKEN INTO CUSTODY IF APPROPRIATE. MEMBERS SO ENGAGED WILL USE TACT AND GOOD JUDGEMENT AND SHALL AT ALL TIMES REMAIN CAUTIOUS AND ALERT TO THE POSSIBILITY OF ATTACK OR ESCAPE BY THE SUSPECT.

4. IN CASES OF MINOR VIOLATIONS OF THE LAW, E. G., ROCK HALL MUNICIPAL REGULATIONS AND IN THE JUDGEMENT OF THE OFFICER, THE CIRCUMSTANCES SURROUNDING THE INCIDENT ARE SUCH THAT A VERBAL WARNING WOULD BEST SERVE THE INTEREST OF THE COMMUNITY, THE MEMBER MAY ISSUE SUCH A WARNING AS THE PROPER ENFORCEMENT ACTION. HOWEVER, IN MORE SERIOUS OR AGGRAVATED TYPES OF INCIDENTS, OR THOSE, WHICH INDICATE A SERIOUS DISREGARD FOR THE SAFETY, OR WELFARE OF OTHERS, OR THOSE IN WHICH A MEMBER HAS REASONABLE GROUNDS TO

BELIEVE THAT THE INDIVIDUAL CONCERNED WILL IGNORE THE WARNING, THE APPROPRIATE ENFORCEMENT ACTION WOULD BE AN ARREST.

5. ON THE OCCURRENCE OF A DISTURBANCE, IT IS THE DUTY OF THE POLICE TO RESTORE ORDER AND DISPERSE THE CROWD BY EFFORTS OF PERSUASION, IF POSSIBLE. IF SUCH EFFORTS FAIL, FORCE MUST BE USED AND THE PRINCIPALS ARRESTED.
6. MEMBERS SHALL NOT USE UNNECESSARY FORCE IN MAKING ARRESTS OR IN DEALING WITH PRISONERS OR ANY OTHER PERSON. PRISONERS AND SUSPECTS SHALL BE TREATED IN A FAIR AND HUMANE MANNER; THEY SHALL NOT BE HUMILIATED, RIDICULED, TAUNTED OR EMBARRASSED. ROCK HALL POLICE OFFICERS SHALL NOT STRIKE OR USE ANY FORM OF PHYSICAL FORCE ON A PRISONER OR OTHER PERSON EXCEPT WHEN NECESSARY TO PREVENT ESCAPE OR IN SELF DEFENSE OR TO PREVENT VIOLENCE TO ANOTHER PERSON. MEMBERS OF THE ROCK HALL POLICE DEPARTMENT SHALL REPORT EACH INSTANCE OF THEIR USE OF FORCE TO A SUPERIOR OFFICER AS SOON AS POSSIBLE.
7. IN THE ARREST, TRANSPORTATION, AND DETENTION OF PRISONERS, MEMBERS OF THE ROCK HALL POLICE SHALL TAKE PRECAUTIONS TO PREVENT ESCAPE, INJURY TO THEMSELVES OR OTHERS, AND DAMAGE TO PROPERTY. WHEN MAKING ARRESTS, MEMBERS SHALL SEARCH PRISONERS CAREFULLY AND SHALL IMMEDIATELY TAKE POSSESSION OF ALL WEAPONS AND EVIDENCE.
8. PRIOR TO QUESTIONING AN ARRESTED PERSON, THE ARRESTING OFFICER SHALL WARN THE PERSON OF HIS/HER RIGHTS USING THE ROCK HALL POLICE DEPARTMENT EXPLANATION OF RIGHTS FORM.
9. MEMBERS SHALL NOT CONDUCT THEIR INTERROGATIONS OF SUSPECTS IN A MANNER THAT WOULD TEND TO COMPEL A CONFESSION. MEMBERS SHALL NOT USE PHYSICAL FORCE ON THE SUSPECT OR THE THREAT OF SUCH ABUSE, NOR SHALL THEY MAKE ANY PROMISE OF IMMUNITY OR LESSER DEGREE OF PROSECUTION, OR HOLD OUT ANY OTHER INDUCEMENT OF A DEFENDANT FOR THE PURPOSE OF OBTAINING A CONFESSION.
10. ROCK HALL POLICE OFFICERS WHO ARE THE ARRESTING OFFICER IN A TRAFFIC OR CRIMINAL CASE, SHALL BE RESPONSIBLE FOR THE SECURITY OF THE PERSONAL PROPERTY IN THE POSSESSION OF, OR UNDER THE CONTROL OF, THE ARRESTED PERSON AT THE TIME OF THEIR ARREST.
11. WHEN A PRISONER IS UNCONSCIOUS FROM ANY CAUSE, MEMBERS SHOULD IMMEDIATELY ENDEAVOR TO RESTORE CONSCIOUSNESS. AN UNCONSCIOUS PERSON SHALL IMMEDIATELY BE TRANSPORTED TO A MEDICAL FACILITY FOR EXAMINATION BY A DOCTOR.
12. ANY PERSON ARRESTED BY A MEMBER OF THIS DEPARTMENT WHO EXHIBITS BRUISES, CUTS, OR OTHER INJURIES REQUIRING MEDICAL ATTENTION, SHALL BE TRANSPORTED TO THE APPROPRIATE EMERGENCY HOSPITAL.

#### **E. CITIZEN – POLICE OFFICER RELATIONSHIPS**

1. IT IS EXPECTED THAT EVERY MEMBER OF THIS DEPARTMENT IS KEENLY AWARE OF THE FACT THAT PUBLIC SUPPORT AND COOPERATION IS ESSENTIAL IF WE ARE TO EFFECTIVELY FULFILL OUR POLICE RESPONSIBILITIES. FURTHER, THE EXTENT TO WHICH THE PUBLIC WILL COOPERATE WITH THE ROCK HALL POLICE DEPARTMENT IS VERY MUCH DEPENDENT UPON IT'S RESPECT FOR, AND CONFIDENCE IN, THE POLICE.
2. IN ANY EFFORT TO STRENGTHEN THE CITIZEN-POLICE OFFICER RELATIONSHIP, THE PERSONAL CONDUCT AND ATTITUDE OF THE POLICE OFFICER IS OF PARAMOUNT IMPORTANCE. EACH MEMBER OF THE FORCE MUST UNDERSTAND THAT THE BASIS OF A CORRECT ATTITUDE IS A DESIRE TO SERVE THE PUBLIC. HOWEVER, MEMBERS OF THE FORCE MUST DISTINGUISH BETWEEN SERVICE AND SERVILITY AND BETWEEN COURTESY AND SOFTNESS.
3. IN THE PERFORMANCE OF THEIR DUTY, POLICE OFFICERS SHOULD DEVELOP A DISPOSITION THAT IS PLEASANT AND PERSONAL IN NONRESTRICTIVE SITUATIONS, AND FIRM AND IMPERSONAL IN SITUATIONS CALLING FOR REGULATION AND CONTROL. MEMBERS OF THE ROCK HALL POLICE DEPARTMENT MUST OBSERVE, UPHOLD AND ENFORCE ALL LAWS WITHOUT BIAS OR PREJUDICE AND WITHOUT REGARD TO INDIVIDUAL OR INDIVIDUALS INVOLVED.

#### **F. CODE OF ETHICS**

1. MEMBERS SHALL BE HABITUALLY COURTEOUS; THEY SHALL RECOGNIZE THEIR RESPONSIBILITY AS A PUBLIC SERVANT AND SHALL BE PARTICULARLY ATTENTIVE TO CITIZENS SEEKING ASSISTANCE OR INFORMATION, OR WHO DESIRE TO REGISTER COMPLAINTS, OR GIVE EVIDENCE.
2. ACCEPT THEIR RESPONSIBILITY TO THE PUBLIC BY BEING PUNCTUAL IN THEIR ENGAGEMENTS AND EXPEDITIOUS IN THEIR PERFORMANCE OF THEIR DUTIES.
3. REGARD THEIR OFFICE AS A PUBLIC TRUST AND, IN THE DISCHARGE OF THEIR DUTIES, BE CONSTANTLY MINDFUL OF THEIR PRIMARY OBLIGATION TO SERVE THE PUBLIC EFFICIENTLY AND EFFECTIVELY.
4. ADMINISTER THE LAW IN A JUST, IMPARTIAL, AND RESPONSIBLE MANNER AND SHALL NOT ACCORD TO SOME MORE REASONABLE TREATMENT THAN TO OTHERS. MEMBERS OF THE ROCK HALL POLICE DEPARTMENT SHALL RECOGNIZE THE LIMITATIONS OF THEIR AUTHORITY AND AT NO TIME USE THE POWER OF THEIR OFFICE FOR THEIR OWN PERSONAL ADVANTAGE.
5. MEMBERS OF THE DEPARTMENT SHALL BE TRUE TO THEIR OBLIGATIONS AS CUSTODIANS OF PUBLIC PROPERTY AND BEAR IN MIND THAT THE MISUSE AND WASTE OF SUCH IS EQUALLY REPREHENSIBLE AS MISUSE OF MONIES FROM THE PUBLIC TREASURY.
6. MEMBERS OF THE DEPARTMENT WILL FULLY COOPERATE WITH ALL OTHER PUBLIC OFFICIALS TO THE END THAT THE SAFETY AND GENERAL WELFARE OF THE PUBLIC WILL BE INSURED.

7. CONDUCT THEIR PUBLIC AND PRIVATE LIVES SO THAT THE PUBLIC REGARDS THEM AS EXAMPLES OF STABILITY, FIDELITY AND MORALITY.
8. MEMBERS OF THE ROCK HALL POLICE DEPARTMENT SHALL BE LOYAL TO THEIR PROFESSION.

STEVE W. MOORE  
ACTING CHIEF OF POLICE

SWM: CCW