

issue an Adjudication Summons (refer to M.O.P. Chapter 3).

1.3 ARREST WITH A WARRANT

A warrant of arrest issued by a local criminal court may be executed anywhere in the county of issuance or an adjoining county, by any Police Officer to whom it is addressed or a delegate of that Police Officer. It may be executed anywhere in NY State if endorsed by the local criminal court in the county in which the arrest is to be made.

1.4 INFORMING THE SUSPECT OF THE OFFICER'S AUTHORITY AND PURPOSE

When making an arrest the Officer must inform the suspect of the Officer's authority and purpose and the reason for making the arrest, or in the case of an arrest pursuant to a warrant, the Officer must inform the suspect of the existence of the warrant and the associated offenses, unless the Officer encounters physical resistance, flight or any other factor that renders such procedure impractical.

1.5 UNCONDITIONAL RELEASE OF ARRESTED PERSON

A. Warrantless Arrest

If, after making a warrantless arrest of a person, regardless of the offense, the Officer discovers that there does not exist reasonable cause to believe that the arrested person committed the offense or any other offense based upon the conduct in question, the Officer must cause the immediate release of the person from custody.

B. Arrest Pursuant to an Arrest Warrant

If an Officer arrests a person on a warrant and it is later determined that the warrant in question has previously been served on the Defendant or that the warrant was withdrawn, the Officer must cause the immediate release of the person from custody.

C. Reports Required

In each instance in which a suspect is unconditionally released from custody, the Officer shall prepare a complete report on an Intra-Departmental Memorandum explaining the details of the incident.

Distribution: Original to Commissioner's Office
Copy to Division/District Chief
Copy to CCB
Copy to Command Files

1.6 ENTERING PREMISES TO MAKE AN ARREST

A. Without an Arrest Warrant

A Buffalo Police Officer may enter any premises in which the Officer reasonably believes the defendant to be present except the defendant's dwelling or the dwelling of a third party. The Officer may enter the defendant's dwelling or the dwelling of a third party without an arrest warrant or search warrant only in those cases where there exist exigent circumstances which lead the Officer to believe that:

1. a crime has been committed or is being committed, and

2. that immediate action is essential to terminate the crime, or the Officer reasonably suspects that (s)he or others will suffer physical injury or death, or (s)he reasonably believes that evidence of the crime will be destroyed or otherwise lost.

B. With an Arrest Warrant

A Buffalo Police Officer may enter any premises in which the Officer reasonably believes the defendant to be present, except the dwelling of a third party who is not the subject of the arrest warrant. If the defendant is reasonably believed to be in the dwelling of a third party, a search warrant must be obtained.

C. With A Search Warrant

Refer to M.O.P. Chapter 3.

D. Making Notice of Officer's Authority

Before making entry the Officer must give, or make reasonable effort to give, notice of his/her authority and purpose to the occupant, unless there is reasonable cause to believe that giving such notice will:

1. result in escape, or an attempt to escape; or,
2. endanger the life or safety of the Officer or another; or,
3. result in the destruction, damage, or secretion of material evidence.

E. Entry After Giving Notice of Authority

If, after giving notice, or if (s)he is authorized to enter without giving notice, the Officer may enter the premises, and by a breaking if necessary.

1.7 HOUSING PROJECTS

Members of the Department shall provide to housing projects located within the City of Buffalo, police service of the same character and to the same extent as that provided to other City residents.

1.8 NEW YORK STATE THRUWAY JURISDICTION

- A. Law enforcement responsibility on the Niagara Section of the New York State Thruway, within the boundaries of the City of Buffalo, lies with the New York State Police Thruway Detail. It encompasses all that section of the Thruway (including exit and entrance ramps) that extends from the Ogden Street Exit/Entrance on the east to the center line of Vulcan Street on the west. It does not include the arterial expressways or the feeder sections of the system.
- B. Traffic infractions committed on the Niagara Section of the Thruway are the sole jurisdiction of the State Police Thruway Detail. No member of the Buffalo Police Department shall make a traffic infraction arrest on this stretch of roadway.
- C. If an investigation, by pursuit or otherwise, takes a member onto the Niagara Section of the Thruway within the City Limits, the member will be accorded all possible cooperation by the Thruway Detail. Conversely, all members of the Department will

accord all possible cooperation to the Thruway Detail if an investigation takes them off the Thruway.

1.9 PEACE BRIDGE JURISDICTION

Only the American sector of the Peace Bridge is within the jurisdiction of members of the Department. The American sector extends to the middle of the bridge where the international boundary with Canada is clearly marked. Members have no arrest power on the Canadian side of the bridge.

1.10 VESSELS OF UNITED STATES OR FOREIGN REGISTRY

A sworn member's power to arrest within New York State extends to any vessel, whether of US or foreign registry, that is on the United States' side of the International Boundary line.

1.11 INTERNATIONAL BOUNDARY

The City, State, and Federal boundaries in Lake Erie and the Niagara River are coterminous.

The break wall is well within the City and State boundary. The South Harbor entrance on the break wall is about 3 1/4 miles due east of the International Boundary.

The North Harbor entrance is approximately one mile due east of the International Boundary. The City Water Intake Station is approximately 1,000 feet east of the International Boundary.

The International Boundary is in about the middle of the Niagara River. The exact location can be determined by reference to the Niagara Upper Chart No. 312 of 1949 prepared by the US Corps of Engineers.

For further reference, the City Charter more fully delineates the boundaries of the City of Buffalo.

1.12 FEDERAL CASES

A. United States Marshals - U. S. Warrants

No member of the Department shall arrest, or assist in making an arrest, on a United State Warrant, except when called upon by a United States Marshall who is in the immediate discharge of his/her duties, and who needs assistance.

B. Federal Crimes

Members of this Department shall not make arrests for Federal Crimes. Whenever a violation of a Federal Law comes to the attention of a member of the Department, the appropriate Federal Agency shall be immediately contacted.

NOTE: In some situations, conduct constituting a crime may violate both state and federal statutes (e.g. bank robbery). In such cases, sworn members of the Buffalo Police Department may arrest the suspect and charge him/her with the state law violation. The District Attorney's Office and the US Attorney's Office will ultimately decide if the

defendant shall be tried in state or federal court.

C. Federal Lands/Property

The Buffalo Police Department has no jurisdiction over Federal property for which the Federal Government has accepted a deed of cession executed by the State of New York. There are three such locations within the City of Buffalo. They are the Veteran's Administration Hospital at 3495 Bailey Avenue, the US Court House at 68 Court Street and the track of sovereign land known as the Seneca Buffalo Creek Casino at 1 Fulton Street. Any Buffalo Police Department member directed to respond to either of these facilities or has a need to conduct an investigation /serve warrants, etc., shall contact the appropriate Federal Police Agency for assistance. For the US Court House, contact the Federal Protection Safety Division Police, and for the Veteran's Administration Hospital, contact the Veteran's Administration Police. Questions concerning criminal jurisdiction on Federal property shall be referred to the US Attorney and the Erie County District Attorney for resolution.

D. Courts and Magistrates in Federal Criminal Cases

All cases involving violations of Federal Statutes are within the jurisdiction of the U. S. District Court, located at 68 Court Street, Buffalo, NY, 14202.

1.13 DIPLOMATIC IMMUNITY

A. No member of the Department shall arrest, issue a parking tag to, or issue a summons to, any person who is entitled to diplomatic immunity.

B. Persons entitled to diplomatic immunity should have in their possession an identification card that is issued by the U. S. Department of State and that displays the words either "United Nations" or "Diplomatic."

1. United Nations Identification Card

The United Nations card is embossed with the seal of the United Nations. It contains the name, title, date of issue, and the picture and signature of the envoy. The seal of the Department of State is included, together with the signatures of the Secretary of State and the Chief of Protocol.

2. Diplomatic Identification Card

The Diplomatic Card is embossed with a seal of the Department of State and includes the photograph and signature of the diplomatic agent. It also includes the diplomat's title, diplomatic mission, and if a family member of a diplomat, his/her relationship to the named individual. The card is signed by the Chief of Protocol for the Secretary of State.

3. Issues concerning eligibility for diplomatic immunity can be referred to:

- a) US Department of State Operation Center (202) 647-1512
- b) US Department of State Protocol Office (202) 647-1984

C. Instead of arresting, issuing a parking tag or issuing a summons to such person, the member shall obtain the person's name and title, the government that (s)he represents,

or, in the case of a parking violation, the license number of the vehicle. This information shall be forwarded to the member's Commanding Officer on an Intra-Departmental Memorandum.

Distribution: Original and first copy to Commissioner
Copy to Division or District Chief

D. Members of the Department shall be courteous to such persons and treat them with due respect.

2.0 CONSTITUTIONAL GUARANTEES

2.1 POLICY

It is the policy of the Buffalo Police Department to protect those rights and freedoms guaranteed to all citizens by both the New York State and the United State Constitutions. The constitutional rights of those suspected of engaging in criminal activity shall in no way be diminished.

2.2 RIGHTS TO BE PROTECTED

While it is the duty of every member of the Department to vigilantly protect all those rights enumerated in the New York State and United States Constitutions, the following rights are most commonly implicated in the law enforcement context:

- A. freedom of speech, religion and the press, and the right to peacefully assemble;
- B. freedom from unreasonable searches and seizures;
- C. freedom from self incrimination;
- D. the right to a speedy trial and to confront witnesses;
- E. the right to have counsel present during questioning and at other critical stages of the proceedings.

3.0 INTERROGATIONS

3.1 POLICY

It is the policy of the Buffalo Police Department to enhance the preparation and presentation of cases by obtaining statements from witnesses, suspects and defendants. All questioning must be consistent with the constitutional rights guaranteed to the person being questioned.

3.2 NON CUSTODIAL INTERROGATIONS

If a suspect is not in custody, or is not in any significant way deprived of his/her freedom, the suspect need not be apprised of the Miranda Warnings before being questioned.

- A. Miranda Warnings need not be recited to a motorist who has been stopped for a traffic infraction. If the motorist is in custody for a traffic misdemeanor or felony (e.g.. DWI), the warnings are required.

- B. A person temporarily detained in a "stop and frisk" situation need not be apprised of the warnings.
- C. At that point in a non custodial interrogation when the suspect is taken into custody or deprived of his/her freedom in a significant way, the suspect must be given the Miranda Warnings before any additional questioning can be done.

3.3 CUSTODIAL INTERROGATIONS

A. Generally, custodial interrogation means:

1. the person has been taken into custody, or otherwise deprived of his freedom in a significant way; or,
2. the interrogation takes place in a police dominated environment and the suspect is deprived of communication with others; or,
3. the suspect is thrust into an unfamiliar environment and subjected to interrogation; or,
4. when a suspect is in police custody, he is surrounded by antagonistic forces and subjected to techniques of persuasion.

B. When conducting custodial interrogations, the Miranda Warnings must be given before any questions are posed to the suspect.

C. The Miranda Warnings should be read from the Miranda Rights Card supplied by the Department.

D. Questioning of the suspect can only proceed if the suspect waives his/her Miranda rights. The burden of proof is on the government to show that the waiver was made voluntarily, knowingly and intelligently. The member shall record the date, time and exact words used by the suspect in waiving his/her rights. The member should also attempt to have the suspect sign the Miranda Rights card as well as have the suspect include the date and time of the waiver.

3.4 SPONTANEOUS ADMISSIONS

It is not necessary to advise a suspect of the Miranda Warnings if the member of the Department does not ask the suspect any questions concerning the illegal activity. Spontaneous and unelicited statements made by the suspect are admissible even though the Miranda Warnings were not given. For these type statements to be admissible in court they cannot be made in reply to a question from the Officer nor may they be made as a response to a statement made by the Officer when it is likely the Officer's statement would elicit such a response (refer to CPL 710.30 in Chapter 3).

3.5 TAKING STATEMENTS - GENERALLY

A. Miranda Warnings must be given where appropriate (refer to Chapter 3, above).

B. It is recommended at least one witness should be present for the signing of a statement.

- C. The question and answer style statement is preferred to the narrative type statement. The question and answer style statement is easier to correct and less prone to ambiguity.
- D. Leading questions that elicit a "yes" or "no" response, should be avoided.
- E. For questioning juveniles, refer to M.O.P. Chapter 3.
- F. If a suspect makes a verbal statement but refuses to make a written statement, the details of that verbal statement shall be carefully recorded by the Department member. If a suspect assists in the making of a written statement but then refuses to sign the statement after it has been completed, the unsigned written statement shall be maintained as part of the case file.

3.6 WRITTEN STATEMENTS

A. Statement Defined

For purposes of this section, statements shall be construed to mean anything communicated to a member of the Department by a witness, suspect or defendant, concerning the commission of a crime, including admissions and confessions.

- B. Statements shall, when possible, be reduced to writing and signed by the person making that statement.

All written statements shall minimally include:

1. the date and time the statement was commenced and the time concluded;
2. the location where the statement was taken;
3. the person's age, date of birth, address and place of employment;
4. the person(s) present when the statement was made;
5. if the person making the statement is a suspect, a recitation of the Miranda Warnings and the suspect's voluntary, knowing and intelligent waiver thereof;
6. a detailed account of the incident in the person's own words;
7. an acknowledgment by the person of the number of pages that the statement consists of, that (s)he has read the statement or has had the statement read to him/her, and that (s)he has initialed each correction (e.g.. I have read this statement, consisting of two pages, and it is all true. I have placed my initials by each correction and I sign it below.);
8. an affirmation by the person making the statement attesting to its truthfulness (e.g.. I, John Doe, do hereby solemnly swear and affirm that the above is my statement, that I have read/or have had read to me this statement, and that the information contained therein is correct and true.);
9. at the end of the narrative, the signature of the person making the statement as well as the signature of the witness(s);
10. an attestation by a Notary Public or Commissioner of Deeds (e.g. "*Sworn and subscribed to before me this _____ day of _____, 2011*", together with the Notary's or Commissioner's of Deeds signature and the date his/her commission expires.)

- C. The investigating members shall read the completed statement out loud to the suspect or have the suspect himself/herself read the completed statement out loud to the investigating members.
- D. After the suspect has read the completed statement out loud, or has had the completed statement read out loud to him/her, (s)he should be allowed to make any changes desired. All changes must be initialed by the suspect. The suspect must then read or have the corrections read out loud to him/her.
- E. The signature of the suspect must appear at the end of the statement just above that of the witnesses and the Notary Public or Commissioner of Deeds.
- F. If during the interrogation, the suspect admits to other unrelated offenses, a separate statement should be taken for each unrelated offense.

3.7 STATEMENTS OF COMPLAINANTS AND WITNESSES

- A. Whenever the testimony of a witness may prove important in the preparation and presentation of a case, his/her statement should be put in writing as soon as possible, while events are still fresh in his/her mind.
- B. Statements of witnesses should ordinarily be taken in the form of a Supporting Deposition. However, the regular statement form should be used by the Investigating Officer when it will serve to enhance the preparation and presentation of a case.
- C. Statements of females in cases of sex or moral offenses should be taken by a female Officer if at all possible.
- D. Statements of complainants and witnesses shall have a typed closing statement that reads: "I have read, and or had read to me, the above statement and it is correct and true but not necessarily complete in every minute detail."

3.8 CPL 710.30 REQUIREMENT

Any time a defendant makes a statement to a member of the Department in conjunction with a criminal charge that may be introduced by the prosecution as evidence; the member must prepare a 710.30 Notice notifying the defendant's attorney that such statement was made.

3.9 RIGHT TO COUNSEL AFTER CRIMINAL COMPLAINT FILED

After a criminal charge has been filed with the Court, a critical stage of the proceeding has been reached and the defendant is entitled to representation by an attorney. Defendants arrested pursuant to an arrest warrant cannot be questioned without the consent of their attorney.

4.0 SEARCHES AND SEIZURES

4.1 POLICY

It is the policy of the Buffalo Police Department to thoroughly investigate criminal

activity, and to search for and seize evidence, contraband and instrumentalities of crime. All searches and seizures must be conducted with due regard for the safety of Department members. The constitutional rights of the parties involved must be safeguarded and the integrity of the Department must not be compromised.

4.2 SEARCHES AND SEIZURES - GENERALLY

Questions of law concerning the constitutional validity of a search and seizure are decided on a case by case. It is beyond the scope of a Police Manual of Procedures to address in detail the intricacies of this complex and ever changing area of law. Consequently, only general principles can be presented here.

- A. "Unreasonable searches and seizures" are prohibited by the US Constitution. Generally, any search conducted without a search warrant is "unreasonable" and therefore, impermissible unless it falls within the limited number of exceptions to the search warrant requirement.
- B. A search and seizure pursuant to a search warrant (as opposed to a warrantless search) more readily withstands the scrutiny of the court and can offer some measure of insulation from civil liability.
- C. Searches and seizures, with or without a search warrant, must be based on probable cause to believe that the property to be seized is stolen, unlawfully possessed, evidence, or an instrumentality of a crime.
- D. The extent of any search is constrained by the nature of the probable cause. (e.g. It would be impermissible to search in a jewelry box when the property sought is a stolen couch.).
- E. All searches should be conducted in the least intrusive manner, with a minimum of disruption to the person and physical property being searched.
- F. While searches shall be thorough they should also be conducted in the shortest amount of time possible.

4.3 EXCEPTIONS TO THE SEARCH WARRANT REQUIREMENT

In the following circumstances, where the requisite level of probable cause exists, a legal search can be conducted without the necessity of first obtaining a search warrant. The critical factor is whether the defendant has an "expectation of privacy" in the place or thing to be searched.

- A. Arrest Warrant Exception: If there exists an active arrest warrant, an Officer may search any premise for the defendant, including the defendant's home, if there is probable cause to believe that the defendant is in that premise at the time of the search. This exception does not permit the Officers to search for the defendant in the dwelling of a third person not named in the warrant. The search is strictly limited to locating the defendant and cannot include searching for evidence.
- B. Search Incident to Arrest: After an arrest has been made a thorough search of the

defendant may be undertaken as well as any area within the physical reach of the defendant.

- C. Consent to Search: Any consent to search must be made knowingly, voluntarily and affirmatively (silence and acquiescence are insufficient). Consent must be given by a person who has control of the property and has legal authority to grant such consent. It is always better to obtain written consent although that is not a legal requirement. Consent can be withdrawn at any time.
- D. Frisk: A frisk is a pat down search for weapons.
1. A "stop." When an Officer has reasonable suspicion to believe that a person is committing, has committed, or is about to commit a misdemeanor or felony as defined in the Penal Law, the Officer may stop that person and ask the person's name, address and for an explanation of the conduct (CPL 140.50).
 2. During the "stop" if the officer reasonably suspects (s)he is in danger of physical injury, the Officer may conduct a pat down search for anything that is readily capable of causing serious physical injury and of a kind not ordinarily carried in public by law abiding citizens. (CPL 140.50-1).
- E. Plain View Observation: An Officer may seize anything that is within his/her plain view and that the Officer has probable cause to believe is evidence or contraband. The key is to establish that the Officer has a legitimate reason for being in the place from which the evidence or contraband was observed.
- F. Abandoned or Discarded Property: A person relinquishes his/her expectation of privacy in any property that (s)he abandons or discards, including property discarded at the approach of a police officer. Property falling into this category may be searched thoroughly.
- G. Open Fields Exception: Buildings, homes and yards have constitutional protection. Open fields, woods and pastures that are neither fenced nor posted to exclude trespassers, can be searched without a warrant.
- H. Automobile Searches: Automobiles can be searched when the Officer has probable cause to believe that there is evidence in the vehicle. The extent of the search is dictated by the probable cause. An entire automobile may be searched, as well as containers in the automobile, if the probable cause so dictates.
- I. Inventory Search: An inventory search requires that the property lawfully came into the possession of the police (e.g., vehicle towed after an accident) and the inventory is conducted pursuant to a standard Department policy.
- J. Exigent Circumstances: There must be probable cause to believe that a crime has been committed or is being committed, and that immediate action is necessary to terminate the crime, or that someone will suffer physical injury or death, or that evidence of the crime will be destroyed. The search must be made at the time of occurrence under circumstances in which there is no time to secure a search warrant.

This exception should be used only in true emergency situations.

K. Administrative Searches: These are not searches for evidence, but rather inspections to assure compliance with governmental laws and regulations of specific businesses. An administrative search requires a pervasive and detailed regulatory scheme for the specified business. Examples include:

1. firearms dealers and gunsmiths,
2. pawnbrokers,
3. junk dealers,
4. scrap processors,
5. wholesale and retail off-premise sellers of alcoholic beverages.

L. Searches Expressly Allowed by Statute: There are certain very limited circumstances in which statutes have authorized warrantless searches. Knowledge of current statutes and case law is highly recommended.

4.4 SEARCH WARRANTS

Members shall be guided by Article 690 of the Criminal Procedure Law in obtaining and executing search warrants, and processing property seized by search warrants.

4.5 OBTAINING SEARCH WARRANTS

Supervisors shall take an active part in assisting subordinate officers in obtaining, executing, and following up with search warrants. Search warrants shall not be sought without the Supervisor's prior knowledge and approval. All narcotic related search warrants must have the prior approval of a Narcotics Lieutenant, Detective Sergeant or the Detective Division Captain. Information on narcotics related search warrants is contained in the Narcotics Unit Operations Manual.

4.6 EXECUTING SEARCH WARRANTS - LEGAL REQUIREMENTS

Execution of search warrants is governed by CPL Section 690. Refer to this section for regulations and laws concerning search warrants. All applicable sections of CPL 690 shall be followed.

4.7 EXECUTING SEARCH WARRANTS - STRATEGIC PLANNING

A. The Officer obtaining the search warrant must attempt to gather information concerning the physical layout of the place to be searched, persons who may be present, the possibility that the search will be met with resistance, and whether weapons are present that could pose a serious risk to the safety of the officers executing the search warrant. In those circumstances in which the risk to the Officers executing the search warrant is high or where there is reliable information indicating the presence of weapons in the place to be searched, the SWAT Team Commander must be contacted for assistance.

B. The ranking officer involved in executing a search warrant must a Supervisor or above. (S)he shall conduct a pre-execution briefing with all members involved in the search. The following factors should be addressed:

1. clearly establish the officer who is to be in command;
 2. all circumstances leading up to the search warrant;
 3. the type and scope of the warrant issued;
 4. the name and physical description of the person sought or the kind or property authorized to be seized;
 5. a complete description of the physical layout of the location to be searched;
 6. the roles of each officer involved in the search warrant execution;
 7. tactics and strategies that may be used to gain entry;
 8. special hazards that may exist and persons who may be encountered;
 9. equipment to be used and the attire to be worn (e.g., plainclothes officers must wear clothing that clearly identifies them as members of the Buffalo Police Department).
- C. A member of the team of Officers executing the search warrant shall be designated to notify the Radio Dispatcher of the location of the search. The notification shall be made simultaneous with entry or immediately thereafter, if prior notification would jeopardize Officer safety.
- D. The Officers executing the search warrant must announce their presence and purpose unless specified otherwise in the search warrant. Only the amount of force sufficient to gain entry shall be used. All persons encountered in the premises must be immediately controlled. The owner or person responsible for the premise shall be given a copy of the search warrant.
- E. An orderly and coordinated search of the premises shall be conducted, consistent with the scope of the warrant. Officers will be assigned specific areas to search. The ranking officer shall ensure that all areas authorized to be searched are searched thoroughly. (S)he must also assure that the extent of the search does not exceed the scope of the warrant.
- F. After the search warrant is executed, a copy of the warrant and a receipt for property taken must be left at the scene and the premises must be secured as best as possible.
- G. All property seized must be inventoried and delivered to the Court without unnecessary delay along with the original search warrant and the Application for a Search Warrant. The ranking Officer shall document on Intra- Departmental Correspondence any damage caused in executing the search warrant or any injuries suffered by any person involved in the search, including police personnel, defendants or other civilians.
- H. All members participating in the execution of the search warrant shall participate in a critique of the entire search warrant operation ranging from the pre-execution briefing, notification of the Dispatcher, the entry, the search and the post execution documentation.
- I.

5.0 EYEWITNESS IDENTIFICATION

3.0 DUTIES OF PATROL OFFICERS - GENERALLY

3.1 POLICY

It is the policy of the Buffalo Police Department that members assigned to patrol duty are responsible for the initial delivery of police services to the public. In those instances in which specialized police units have been created, those specialized units shall use their particular expertise to supplement the patrol officer.

3.2 PERFORMANCE AND ATTENTION TO DUTY

Refer to Chapter II of the Rules and Regulations of the Buffalo Police Department.

3.3 WORK SCHEDULE

- A. The regular hours of daily work shall be consecutive except for interruptions for lunch.
- B. Sworn members of the Department working in a District shall be assigned to one of the following shifts:

0001hrs – 1000hrs

0600hrs – 1600hrs

1000hrs – 2000hrs

1530hrs – 0130hrs

2000hrs – 0600hrs

- C. The first fifteen minutes of each shift shall be designated as a briefing period. All members must be present daily for briefing unless otherwise excused by their Commanding Officer.
- D. Officers shall be allowed a one half hour lunch period during their ten (10) hour tour of duty. The lunch period shall be taken as permitted by their Superior Officer but not during the last one and one-half hours of the tour of duty.
- E. At the expiration of each tour of duty, members shall be present and accounted for. If circumstances arise which prevents their return to their respective stationhouse or office, the member shall contact his/her Supervisor and explain the circumstances.

3.4 UNIFORM AND EQUIPMENT TO BE WORN WHILE ON DUTY

- A. The uniform shall be in accordance with all existing directives and regulations. The Supervisor in charge of the shift in each District shall

determine, based on the weather, the type of authorized uniform (i.e. warm weather uniform or cold weather uniform) to be worn.

B. Members of the same car crew must be attired alike.

C. Members in uniform shall carry the following equipment:

1. Badge
2. Wreath
3. Regulation service firearm
4. Ball-point pen
5. Handcuffs
6. A working flashlight
7. Baton, unless otherwise directed by a Superior Officer
8. Regulation police hat
9. CAP Spray if authorized

D. Officers shall keep Department issued body armor readily available. It may be worn at the member's discretion except that during hazardous circumstances the Officer may be ordered to wear body armor by a Superior Officer.

3.5 INVESTIGATING COMPLAINTS

When a member sees, or receives information from any source that a crime has been attempted or committed, or that any other police incident has occurred, they shall immediately respond, and give such assistance or take such police action as the situation may require. All proper reports shall be completed. The member shall act courteously, but firmly and efficiently.

3.6 CRIME SCENES

The first member of the Department to arrive at a crime scene shall:

- A. attend to the injured;
- B. apprehend the suspect if at the scene;
- C. establish and protect the crime scene (refer M.O.P. Chapter 5);
- D. identify, locate and isolate witnesses for later interviews and statements;
- E. protect evidence (refer M.O.P. Chapter 5);
- F. prepare all necessary reports.

3.7 RESPONSIBILITY FOR INITIAL INVESTIGATION

The first member of the Department who has been directed to a crime scene shall be responsible for undertaking the initial investigation. Refer to M.O.P. Chapter 8.

3.8 FIELD INTERVIEWS

Members of the Department shall conduct field interviews when permitted to do so by law and they shall report the results of the interview on a Field Interview

Report (Form P-1371). The Field Interview Report will be forwarded to the Crime Analysis Unit through the District Detectives. Access to the Field Interview Report File may be gained through the Records Management System (RMS). Police Officers may conduct field interviews in the following circumstances.

A. Objective Credible Reason

The Officer may conduct a field interview based on an objective credible reason, that reason need not necessarily be indicative of criminal conduct (e.g. request for identification, request for an explanation of the person's presence in a particular area, etc.). Under this circumstance, the person cannot be asked incriminating questions nor questions that would lead a reasonable person to believe that (s)he is suspected of criminal activity. The person cannot be detained and is free to walk away from the Officer at any time.

B. Founded Suspicion that Criminal Activity is Afoot

The Officer may conduct a field interview based on a founded suspicion that criminal activity is afoot. The Officer may ask leading questions, the nature of which could lead a reasonable person to believe the (s)he was suspected of criminal activity. Under this circumstance, an Officer is not permitted to detain the person during the interview.

C. Reasonable Suspicion

The Officer may conduct a field interview based on his/her reasonable suspicion that the person has committed, is committing, or is about to commit an offense. "Reasonable suspicion" means that amount of knowledge sufficient to induce an ordinarily prudent and cautious person under the circumstances to believe that criminal activity is at hand. Under this circumstance, the person may be detained for a length of time sufficient for the Officer to obtain answers to questions relating to the conduct which gave rise to the stop. In addition, if during the stop, the Officer perceives a risk to his/her safety, the Officer may conduct a pat search of that person.

1. Vehicle stops must be based on reasonable suspicion that the operator or an occupant of the vehicle is, has been, or will be engaged in a violation of the law.

3.9 ENTERING BUILDINGS

- A. A building that is found unsecured or burglarized shall not be entered by a lone Officer, except in an emergency situation.
- B. The Officer shall request assistance in searching the building, keeping the premise under close surveillance until additional Officers arrive.
- C. The owner of the premises shall be notified to secure the building. If the owner or other responsible person cannot be located, the District Supervisor

[REDACTED]

[REDACTED]

NOTE: In the event of extenuating circumstances (e.g. shots being fired inside, etc.) notify the Dispatcher immediately.

F. Subsequent to the robbery, bank personnel have been instructed to complete a "Bandit Description Report" (provided by the bank). [REDACTED]

[REDACTED]

8.5 FALSE/ACCIDENTAL BANK ALARMS

- A. All bank alarms will be considered as legitimate until confirmed as being false or accidental.
- B. All bank alarms will be confirmed through the Dispatcher prior to Officers approaching the bank.
- C. Once a bank alarm has been determined to be false, accidental, or a circuit problem, the bank manager will complete an "Alarm Activation Report" (provided by the bank). A copy of this form will be given to the responding Officer and should be forwarded to the Division of Administration and Communication.

8.6 ALARM TESTS

When a test of a bank's alarm system is required, the following procedures will be used:

- A. Bank officials will contact the Radio Dispatcher through the 911 complaint writers and give his/her name, the bank location and state his/her intention to test the alarm.
- B. The Radio Dispatcher will send a patrol unit to the bank.

9.0 POLICE PURSUIT

9.1 POLICY

It is the policy of the Buffalo Police Department that vehicular pursuit of suspects

in motor vehicles shall be limited to those circumstances in which the life or safety of any person is in imminent danger, or in which the person being pursued is suspected of having committed a violent felony. Even in these limited circumstances, the pursuit must be discontinued whenever the risk to the Officers or to the public engendered by the pursuit, outweighs the benefit of immediately apprehending the suspect.

9.2 PURSUIT DEFINED

For purposes of this section, pursuit is defined as an attempt by a Police Officer, while driving a marked police vehicle, to arrest a suspect who is driving a motor vehicle and who is attempting to avoid capture by the use of evasive driving tactics which violate the law, and thereby willfully and knowingly fails to yield to the Officer's use of emergency lights and siren.

9.3 DECISION TO INITIATE PURSUIT

A. The decision to pursue shall only be made after a careful consideration of all of the following relevant factors:

1. Nature of the offense
2. Time of day
3. Weather conditions
4. Geographic location/population density
5. Familiarity with the area
6. Vehicle capability and reliability.

B. Pursuit shall not be initiated if the reason for the attempted stop is only for VTL violations, misdemeanors, or other non-violent felonies. This specifically prohibits pursuits for UUV's, possession of stolen property (MV) or Grand Larceny of a motor vehicle.

C. Any police vehicle directly involved in a pursuit must use emergency lights and siren. Police vehicle windows shall be closed so that transmissions between the pursuing members and the Radio Dispatcher are more clearly audible.

D. Police motorcycles or unmarked police vehicles shall not engage in pursuits. They may follow a suspect vehicle until a marked vehicle arrives and then yield and not participate any further. Members shall not violate the VTL while in unmarked vehicles or on motorcycles.

9.4 DEPARTMENT GUIDELINES: PURSUIT TACTICS

A. The unit that initiated the pursuit shall be the "Primary Unit" and shall broadcast all pertinent information regarding the pursuit.

B. The Radio Dispatcher is responsible for [REDACTED]

[REDACTED] Only the primary unit will communicate with the Dispatcher. These two units, along with a Supervisor, shall be the only units to engage in the pursuit. A Supervisor or Dispatcher may specifically authorize additional units to parallel the pursuit to the point of termination, but only if:

1. the reason for the pursuit involved a crime of sufficient gravity, and
2. the additional authorized units are at a safe distance and do not directly participate in the pursuit.

C. Units that are not directly involved shall remain in their patrol sector but shall monitor the pursuit and be prepared to provide assistance if directed to do so.

D. Discharging a Firearm or Shoulder Weapon: DO NOT FIRE WARNING SHOTS

1. Where feasible and consistent with personal safety, give some warning, other than a warning shot, before using deadly physical force against another person.
2. Do not discharge a firearm or shoulder weapon from or at a moving vehicle or its occupants unless the occupants of the other vehicle are using deadly physical force against you or another person by means other than the vehicle. Members shall not discharge their firearms at or from a moving vehicle when the consequences of so doing will jeopardize the safety of other members of the Department or innocent bystanders.
3. Do not use deadly physical force when it appears likely that an innocent person may be injured as a result. Reckless conduct which harms an innocent person is not justified under the Penal Law.

E. Members shall not bump or ram the suspect vehicle to terminate a pursuit. Barricading a roadway (road blocks) is impermissible unless:

[REDACTED]

[REDACTED]

5. prior approval has been expressly granted by the Duty Inspector, 911 Communications Lieutenant, or a District Supervisor and they have not subsequently reversed that order.

F. Members driving a police vehicle while involved in a pursuit shall drive with caution, traveling at a reasonable and prudent speed, and at all times maintaining control of the police vehicle. Pursuing members shall not proceed through intersections in which they face a red light, flashing red light, stop sign, or yield sign, without first stopping the police vehicle and checking to make sure that cross traffic has halted and it is safe to continue. When two or more emergency vehicles approach an intersection simultaneously, the emergency vehicle which otherwise would have had the right of way shall proceed first.

9.5 ABANDONING PURSUIT

A. The primary purpose of a motor vehicle pursuit is to arrest fleeing suspects, using the least amount of force necessary, while minimizing the risk of harm to persons and property. As a consequence, members who are involved in pursuit must continuously evaluate whether the seriousness of the violation reasonably warrants continuation of the pursuit.

B. The decision to engage in pursuit is not irreversible and it is the prudent Officer who knows when to terminate the chase. The immediate apprehension of an offender is never more important than the safety of innocent motorists and pedestrians, or the Officers themselves.

C. A pursuit **must** be abandoned:

1. Immediately, when ordered to do so by a Superior Officer (First Line Supervisors are required to respond and monitor pursuits.);

[REDACTED]

D. When pursuit is terminated, pursuing police vehicles will acknowledge that they have terminated their pursuit and will notify the Radio Dispatcher of their location before returning to their assigned patrol sector.

9.6 REPORTING REQUIREMENTS

- A. In all pursuits, the Senior on duty Supervisor will cause an investigation to be made and will report the results of the investigation, together with his/her recommendations, to the Commissioner of Police.
- B. Members initiating a pursuit will file a pursuit form prior to the end of the tour of duty.

9.7 PURSUIITS INTO THE CITY BY OUTSIDE AGENCIES

When an outside law enforcement agency pursues a vehicle into the City of Buffalo:

- A. The Buffalo Police Radio Dispatcher may assign one unit to assist the outside agency;
- B. The Supervisor on duty in the locale where the pursuit terminates will respond to the site of termination;
- C. The Buffalo Police Department members involved in the chase shall be responsible for complying with all existing pursuit procedures.

10.0 CAR STOPS

10.1 POLICY

It is the policy of the Buffalo Police Department that when members stop vehicles for any police related purpose they shall do so in a manner that protects the safety of the member, the motorist, and the general public.

10.2 INITIAL STOP

Car stops are inherently dangerous police actions and should be undertaken with extreme caution. Members shall:

- A. Decide where there is a safe location to stop the vehicle;
- B. Activate the emergency lights and direct the vehicle's driver to pull over;
- C. Inform the Radio Dispatcher of his/her location, the license plate number, the number of occupants, and the reason for the stop;
- D. Position the police vehicle so that it is approximately three feet to the left and one car length behind the suspect vehicle with the spotlight or other lighting equipment illuminating the suspects;
- E. If necessary, order the suspects to remain inside the vehicle until directed otherwise.

10.3 APPROACHING THE VEHICLE

- A. The member's attention shall be focused on the occupants while approaching the vehicle, being alert for any suspicious or sudden movement;

[REDACTED]

- C. [REDACTED] at all times closely monitoring back seat occupants and being aware of any suspicious or sudden movements by any of the occupants.

10.4 CONTROLLING THE DRIVER AND OCCUPANTS

- A. Department members shall immediately establish control over the driver and occupants of the suspect vehicle in a way that ensures the safety of the Officers, the vehicle's occupants, and the public.
- B. While members must always be courteous and polite, in this circumstance they must also be authoritative so that their commands to the occupants of the suspect vehicle are promptly obeyed.
- C. If it is necessary to remove occupants from the suspect vehicle, the Officer shall do so only when (s)he knows it can be done safely. If it cannot be done safely, the Officer shall request and await the arrival of assistance.
- D. Occupants who have been removed from a suspect vehicle shall be kept under control and shall not be allowed to wander.

10.5 TRAFFIC CHECKPOINTS

Members of the Department may establish traffic checkpoints but only with the express permission of a Inspector, a Chief, a Deputy Police Commissioner, or the Police Commissioner. The purpose of a checkpoint is to stop motorists and to methodically evaluate their compliance with the law. The superior officer shall document any such activity in his/her activity report, and shall also prepare a "Buffalo Police Department Traffic Checkpoint Form" (also referred to as a Roadblock Form), as directed by the DPC. The purpose of the directive is to ensure roadway safety. Officers shall:

- A. Make the traffic checkpoint (roadblock) obvious. Overhead flashing lights must be activated on all vehicles taking part in the roadblock.
- B. The traffic checkpoint (roadblock) must not be unreasonably intrusive to the motorists.

- C. Set the traffic checkpoint (roadblock) in a way that minimizes the possibility of avoiding it.
- D. Conduct a traffic stop on any vehicle that attempts to avoid the traffic checkpoint (roadblock). Officers are permitted to check the motorist for valid license, registration, and insurance documentation and also to make inquiry as to why the motorist avoided the roadblock.
- E. During the traffic checkpoint (roadblock), check all drivers and passengers for proper wearing of seatbelts.
- F. During the traffic checkpoint (roadblock), check all vehicles for proper registration and vehicle inspection stickers affixed to the windshield.
- G. Act upon any and all "probable cause" situations arising from information obtained from the "mobile plate reader" and/or from "officer initiated plain view" observations.
- H. Prepare and issue traffic summonses for any violations of law observed during the traffic checkpoint (roadblock).
- I. The traffic checkpoint (roadblock) must begin and end at the predetermined times listed on the form.
- J. All officers involved in the traffic checkpoint (roadblock) shall be given a copy of the form prior to the actual roadblock taking place.

Also to be considered and followed:

- K. The site selected shall be an area where the risk to the Officers and the public can be minimized.
- L. Check points (roadblocks) shall be established during those times of day when interference with traffic flow will be minimized.
- M. Flares, checkpoint warning signs, police vehicles with emergency lights in operation, and/or traffic cones, will be used to alert traffic of the existence of the checkpoint (roadblock) and to direct traffic to the checkpoint (roadblock) area in a safe manner.

11.0 EXCESSIVE AVOIDABLE ALARMS

11.1 POLICY

Avoidable alarms, including intrusion alarms, hold-up alarms, and other types of alarms, contribute to the ineffective utilization of Department personnel. They require an emergency response which jeopardizes the safety of the responding

stored records and a second copy will be retained by City Court Booking. In the event that these records are to be destroyed at a later date, the procedure outlined in M.O.P. Chapter 9 shall be followed.

4.0 MAINTAINING RECORDS OF POLICE RELATED INCIDENTS

4.1 POLICY

It is the policy of the Buffalo Police Department to create a record of all police related events and to maintain such records in accord with necessity and statute.

4.2 INCIDENT NUMBERING

A. All police incidents shall be assigned an event number. Event numbers are assigned by the CAD system and shall reflect the year, the day, and the number of the incident on that day. Records of such police related incidents may be accessed by referral to the event number. The event numbering system is designed so that each incident receives a number, that no numbers are omitted and no numbers are duplicated.

B. The event number is configured as follows:

1. The first two digits of the event number reflect the last two digits of the current year (e.g. 2011 is 11);
2. the next three digits of the event number represent the Julian calendar date which is actually the number of the day of the year (e.g. January 15 is 015, February 1 is 032, etc.);
3. The next series of numbers reflect the number of the event for that day.

4.3 REPORT NUMBERING

A. The CAD System will automatically assign a report number to every incident that requires that a report be completed and filed by Department personnel.

B. The report number will be configured as follows:

- 1) The first two digits of the report number reflect the last two digits of the year in which the report number was created.
- 2) The next three digits represent the Julian calendar date.
- 3) The remaining digits of the report number are sequential.

4.4 POLICE RELATED INCIDENTS

For purposes of the event numbering system a police related incident shall be issued an event number for:

A. Calls For Service

A call for service is any police response documented by a record in the CAD

System.

B. Complaints

A complaint is an allegation of an improper or unlawful act or omission which relates to the business of the Department or any condition that necessitates investigation by the Department to determine if any unlawful act or omission has occurred.

C. Employee Initiated Service Resulting in the Filing of a Report

D. Any Other Police Related Incident

Any other police related incident in which an employee performs a law enforcement function or renders a specific police service at a particular time and location; or, one that requires a preliminary or follow-up investigation.

E. Traffic Tags and Summonses Not Included

The issuance of a traffic tag or traffic summons generally does not require the assignment of an event number. If a traffic tag or summons is issued in conjunction with any of the circumstances outlined in A, B, C, or D above, then an event number may be assigned.

4.5 RESPONSIBILITY

All calls for service, police related incidents, or complaints shall be addressed expeditiously by the employee to whom it was referred. (S)he shall take reasonable police action with respect thereto including action to achieve a resolution or to prevent a recurrence.

4.6 DISTRICT COMPLAINT FILE

A. Each district shall maintain a complaint file which shall include all complaints of ongoing criminal activity, breaches of the peace, or other activity of interest to law enforcement operations. Examples include gangs, corner lounging, persistent parking and driving violations and any unwholesome condition that might exist in the district.

B. At the start of each shift, the shift Lieutenant shall apprise the members of his/her platoon of current complaints contained in the complaint file.

C. This file shall not include reports of individual crimes for which a crime report has been completed.

5.0 POLICE REPORTS

5.1 POLICY

It is the policy of the Buffalo Police Department that Department employees shall prepare police reports in a complete and thorough manner, paying strict attention

to detail, and such reports, shall be submitted in a timely fashion to their superiors for approval.

5.2 PREPARING POLICE REPORTS

- A. The Department has designed various forms for use in particular circumstances. Employees are to be familiar with the use of such forms and shall refer to the Manual of Procedure, General Orders and current directives for guidance. In preparing any Department report the employee shall minimally:
1. Make a complete and thorough investigation of the circumstances and include in the report detailed, accurate information;
 2. The report shall be submitted to the employee's supervisor in a timely fashion and if there is to be a delay, a reasonable explanation of the delay must be submitted to the supervisor prior to the expiration of the employee's tour of duty.
- B. Reports that have been submitted to supervisors for approval shall be carefully inspected by the supervisor, who shall pay particular attention to accuracy, completeness and timeliness. Deficient reports shall be returned to the employee who submitted the report and (s)he shall be apprised of the deficiencies and given instructions for correction. In the event that the supervisor is advised that the submission of a report is to be delayed, (s)he shall assess the reasonableness of the delay and shall take action to ensure that the report is submitted as soon as possible. The supervisor may direct the employee to complete the report at the next earliest date possible or (s)he may assign it to another employee for completion. With the supervisor's approval, it is then to be entered into CHARMS via ICR (in-car reporting).

5.3 COMPLETED STAFF WORK

Any employee who has been delegated to perform a task shall complete the task to the fullest possible extent so that the superior officer's only remaining function would be to approve the work performed. In projects that require that a selection be made from amongst several different possible alternatives the employee shall:

- A. collect all pertinent facts and verify their authenticity and accuracy;
- B. illustrate all possible alternatives and the relatives merits and faults of each;
- C. recommend the best possible alternative and the reasons for such recommendation;
- D. present the results in a clear and concise report.

Permission to Search

The undersigned, residing at _____

_____ does hereby voluntarily authorize _____,

and other officers he may designate to assist him, to search my residence (or other real property) located at _____

_____ and my motor vehicle, namely my _____ (year) _____ (make)

bearing license plate number _____, of the State of _____, presently parked or located at _____

_____ and I further authorize said officers to remove from my residence, real estate and/or motor vehicle, whatever documents, or items of property whatsoever which they deem pertinent to their investigation, with the understanding that said officers will give me a receipt for whatever is removed.

I am giving this written permission to these officers freely and voluntarily, without any threats or promises having been made, and after having been informed by said officer that I have a right to refuse this search and/or seizure.

Signature

Witnesses:

Date: _____, 19____. Time _____ m.