

Maryland Alcohol, Tobacco, and Cannabis Commission

Maryland Alcohol and Tobacco Commission Policy Manual

EXECUTIVE DIRECTOR PREFACE

Dear Colleagues:

I am privileged to introduce this policy manual as a foundational resource for our dedicated Alcohol, Tobacco, and Cannabis Commission (ATCC) workforce, the industries we regulate, and interested stakeholders and community members

The ATCC plays a critical role in ensuring compliance with the laws that govern all aspects of the alcohol and tobacco markets as well as the unlicensed, illicit market for cannabis and THC products. All with the intent of protecting the public and promoting a fair business environment by upholding the integrity of our regulatory framework.

This manual serves as a guiding document for our policies, procedures, and practices in a transparent manner, that reflects our vision of maximizing a culture of compliance through modern enforcement and regulatory strategies. Simply, the ATCC is committed to the highest standards of professionalism, excellence, and accountability.

I expect all members of our agency to be familiar with its contents, as it represents not just policy but the collective responsibility we share.

Thank you for your dedication to the people we serve.

Jeffrey A. Kelly

Executive Director

Maryland Alcohol, Tobacco, and Cannabis Commission

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PUBLIC SERVICE CODE OF ETHICS

As a public servant , my fundamental duty is to serve the community; to safeguard lives, businesses, and property; to protect the innocent against deception, oppression, or intimidation; and to respect the constitutional rights of all to liberty, equality and justice.

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

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

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

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

I will constantly strive to achieve these objectives and ideals, dedicating myself to my chosen profession in public service.

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MISSION STATEMENT

Introduction

The Alcohol, Tobacco & Cannabis Commission (ATCC) was established through legislative action by Maryland's General Assembly and enacted on January 1, 2021. Members of the Commission, appointed by the Governor of Maryland with advice and consent from the State Senate, serve five-year terms and possess expertise in public health, law enforcement, fiscal management, and industry regulation. The Secretary of the State Police and the Secretary of Health, or their designees, may also serve as ex officio nonvoting members.

The Commission's responsibilities include public education regarding the health consequences of alcohol, tobacco, and cannabis/THC products, advocating parental and adult accountability in preventing underage access, and ensuring accurate labeling of alcoholic beverages. The Commission conducts research into laws, best practices, and industry standards nationally and internationally, advising local licensing boards accordingly. Additionally, the Commission prepares annual reports for the Maryland General Assembly.

The Executive Director, appointed by the Governor with Senate approval, possesses comprehensive knowledge of Maryland's regulatory framework for alcohol, tobacco, and cannabis. The Director leads the Commission full-time, overseeing operational effectiveness and strategic policy implementation, and receives compensation as allocated in the State budget.

The Field Enforcement Division, within the Office of the Executive Director, is the statewide law enforcement entity composed of sworn officers and civilian staff. It enforces state laws concerning the sale, manufacture, transportation, storage, and importation of alcohol, tobacco, and cannabis/THC products.

Vision

To cultivate a statewide culture of compliance and integrity through innovative, adaptable enforcement of alcohol, tobacco, and cannabis/THC regulations, employing cutting-edge technology and fostering uniformity and fairness in enforcement.

Mission Statement

The Field Enforcement Division safeguards Maryland residents from illicit or unsafe alcohol, tobacco, and cannabis/THC products, protects state revenue, and promotes industry compliance through diligent inspection, comprehensive education, and fair enforcement of applicable laws and regulations.

Core Values

- **Professionalism:** We uphold professionalism and integrity, emphasizing commitment, collaboration, innovation, and transparency. Our dedication to quality, timeliness, and reliable community service guides our daily actions.
- **Accountability:** We demonstrate responsible and precise management of resources, maintaining fiscal responsibility and transparency. We hold ourselves accountable for our actions, embrace constructive feedback, and strive continually to earn public trust.

MISSION STATEMENT

- **Excellence:** We strive for excellence by providing exceptional service, proactively seeking improvements, and demonstrating the highest standards of performance, courage, and innovation. Our ongoing commitment earns community respect and confidence.

Key Goals and Objectives

- Enhance voluntary compliance with Maryland's alcohol, tobacco, and cannabis laws through robust educational initiatives and clear communication.
- Execute rigorous enforcement strategies for laws governing the sale, manufacture, transport, storage, and importation of alcohol, tobacco, and cannabis/THC products.
- Efficiently process and manage licensing and permit applications, ensuring transparency and adherence to established guidelines.
- Ensure compliance by license and permit holders through regular inspections, clear guidance, and consistent enforcement of trade practices.
- Maintain and continuously improve internal control systems by rigorously following and routinely reviewing divisional, agency, and state policies and procedures.

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Chapter 1 - Law Enforcement Role and Authority

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

This policy establishes the authority and responsibilities of the Field Enforcement Division within the Maryland Alcohol, Tobacco, and Cannabis Commission (ATCC), and outlines its focus on enforcing laws related to the regulation of alcoholic beverages, tobacco, and cannabis in the State of Maryland.

100.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to limit its members to only exercise the authority granted to them by law.

While this agency recognizes the capability of peace officers to make arrests and take other enforcement action, agents are encouraged to use sound discretion in enforcement of the law. This agency does not tolerate abuse of law enforcement authority.

100.3 AUTHORITY OF THE FIELD ENFORCEMENT DIVISION OF THE MARYLAND ALCOHOL, TOBACCO, AND CANNABIS COMMISSION

Md. Code, Alco. Bev. § 1-313 established the roles and authority of members of the Field Enforcement Division of the ATCC. The Field Enforcement Division is a division within the Office of the Executive Director.

The Field Enforcement Division:

- (a) shall consult with and advise the local State's Attorneys and other law enforcement officials and police officers regarding enforcement problems in their respective jurisdictions; and
- (b) may recommend changes to improve the administration of this article, provisions of the Tax - General Article relating to alcoholic beverages, tobacco, and cannabis, and provisions of the Business Regulation Article relating to tobacco.

The agents and employees of the Field Enforcement Division shall be sworn police officers, and are law enforcement officers as that term is defined in the Maryland Code. (see e.g. Md. Code, Pub. Safety § 1-101, § 3-201, Md. Code, Criminal Procedure, § 2-101.).

Agents of the Maryland Alcohol, Tobacco, and Cannabis Commission, in an official capacity are authorized by law to make arrests. Md. Code, Pub. Safety § 1-101.

Agents shall have the powers, duties, and responsibilities of peace officers to enforce the provisions of this the Alcoholic Beverages and Cannabis Article relating to:

1. The unlawful importation of alcoholic beverages, tobacco, and cannabis into the State.
2. The unlawful manufacture of alcoholic beverages, tobacco, and cannabis in the State.
3. The transportation and distribution throughout the State of alcoholic beverages, tobacco, and cannabis that are manufactured illegally and on which any alcoholic

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beverages taxes, tobacco taxes, or cannabis taxes imposed by the State are due and unpaid; and

4. The manufacture, sale, barter, transportation, distribution, or other form of owning, handling, or dispersing alcoholic beverages, tobacco, or cannabis by any person not licensed or authorized under this article, provisions of the Tax - General Article relating to alcoholic beverages, tobacco, or cannabis, or provisions of the Business Regulation Article relating to alcoholic beverages, tobacco, or cannabis.

Agents may issue a citation or other charging document to a person who has committed a violation of Md. Code, Criminal Law Article, § 10–108 ("Distribution of cannabis product to minor")

Agents may make cooperative arrangements for and work and cooperate with the Office of the Comptroller, local State's Attorneys, sheriffs, bailiffs, police, and other prosecuting and peace officers to enforce this article.

100.4 GENERAL AUTHORITY AS POLICE OFFICERS

Agents of the Field Enforcement Division, when acting in an official capacity, have the general police powers to make arrests, conduct investigations, and otherwise enforce the laws of the State, and may exercise those powers as authorized by Md. Code, Criminal Procedure, § 2–102 as follows:

(a) This section does not apply to an employee of the Department of State Police to whom the Secretary of State Police assigns the powers contained in § 2-412 of the Public Safety Article.

(b)

(1) Subject to the limitations of paragraph (3) of this subsection, a police officer may make arrests, conduct investigations, and otherwise enforce the laws of the State throughout the State without limitations as to jurisdiction.

(2) This section does not authorize a police officer who acts under the authority granted by this section to enforce the Maryland Vehicle Law beyond the police officer's sworn jurisdiction, unless the officer is acting under a mutual aid agreement authorized under § 2-105 of this subtitle

(3) Agents may only exercise these powers when acting in accordance with the policies of the ATCC and specific circumstances exist:

(i)

1. the police officer is participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;
2. the police officer is rendering assistance to another police officer;
3. the police officer is acting at the request of a police officer or State Police officer; or
4. an emergency exists; and

(ii) the police officer is acting in accordance with regulations adopted by the police officer's employing unit to carry out this section.

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(4) The powers granted by this section are in addition to the powers granted by §§ 5-801, 5-802, 5-807, 5-808, and 5-901 of the Criminal Law Article and to the powers of fresh pursuit granted by Subtitle 3 of this title.

(c)

(1) A police officer who acts under the authority granted by this section shall notify the following persons of an investigation or enforcement action:

(i)

1. the chief of police, if any, or chief's designee, when in a municipal corporation;
2. the Police Commissioner or Police Commissioner's designee, when in Baltimore City;
3. the chief of police or chief's designee, when in a county with a county police department, except Baltimore City;
4. the sheriff or sheriff's designee, when in a county without a county police department;
5. the Secretary of Natural Resources or Secretary's designee, when on property owned, leased, operated by, or under the control of the Department of Natural Resources;
6. the chief of police of the Maryland Transportation Authority or chief's designee, when on property owned, leased, operated by, or under the control of the Maryland Transportation Authority, Maryland Aviation Administration, or Maryland Port Administration;
7. the chief of police of the Department of General Services or the chief's designee, when on property owned, leased, operated, managed, patrolled by, or under the control of the Department of General Services; or
8. the chief of police of the Maryland-National Capital Park and Planning Commission for the county in which the property is located, when on property owned, leased, or operated by or under the control of the Maryland-National Capital Park and Planning Commission; and

(ii) the Department of State Police barrack commander or commander's designee, unless there is an agreement otherwise with the Department of State Police.

(2) When the police officer participates in a joint investigation with officials from another state, federal, or local law enforcement unit, the police officer shall give the notice required under paragraph (1) of this subsection reasonably in advance.

(d) A police officer who acts under the authority granted by this section:

(1) has all the immunities from liability and exemptions as a State Police officer in addition to any other immunities and exemptions to which the police officer is otherwise entitled; and

(2) remains at all times and for all purposes an employee of the employing unit.

(e)

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- (1)** This section does not impair a right of arrest otherwise existing under the Code.
- (2)** This section does not deprive a person of the right to receive a citation for a traffic violation as provided in the Maryland Vehicle Law or a criminal violation as provided by law or the Maryland Rules.

Executive Director

101.1 PURPOSE AND SCOPE

All law enforcement Executive Directors employed within the State of Maryland are required to meet specific requirements for appointment. This policy provides guidelines for the appointment of the Executive Director of the Maryland Alcohol, Tobacco, and Cannabis Commission, who is required to exercise the powers and duties of the office as prescribed by state law.

101.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that the Executive Director meets the minimum standards for exercising his/her authority granted by law.

101.3 EXECUTIVE DIRECTOR REQUIREMENTS

With the advice and consent of the Senate, the Governor shall appoint an Executive Director of the Commission who serves at the pleasure of the Governor.

The Executive Director shall have the training and experience, including knowledge of Maryland alcohol, tobacco, and cannabis regulatory system, that is needed to direct the work of the Commission; and devote full time to the duties of office and may not engage in another profession or occupation.

The Executive Director may be a sworn police officer with the powers granted to an officer or employee of the Field Enforcement Division under § 1-313 of this subtitle and have successfully completed the course of training prescribed by the Maryland Police Training and Standards Commission (MPTSC) and be certified pursuant to COMAR 12.04.01.06.

The Executive Director is entitled to the salary provided in the State budget. Md. Code, Alco. Bev §1-309

Oath of Office

102.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that, when appropriate, oaths are administered to agency members.

102.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that, when appropriate, agency members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Agency and the dedication of its members to their duties.

102.3 OATH OF OFFICE

All sworn officers shall take and subscribe to the oath required by the Maryland Constitution (Md. Const. Art. I § 9). If a member is opposed to taking an oath, he/she shall be permitted to substitute the word "affirm" for the word "swear."

I, _____, do declare and affirm that I will support the Constitution of the United States, that I will be faithful and bear true allegiance to the State of Maryland, and support the constitution and laws thereof, and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of the Maryland Alcohol, Tobacco, and Cannabis Commission, according to the constitution and laws of this state.

102.4 SANCTITY OF LIFE PLEDGE

All agents are required to sign an affirmative written sanctity of life pledge to respect every human life and act with compassion toward others (Md. PS § 3-524).

I, _____, the undersigned certified police officer, as defined by PSA 3-201, in accordance with my assigned duties, my oath as a police officer and Maryland Public Safety Article Section 3-524(c) do hereby pledge that, at all times, whether on duty or off duty, I will respect every human life and act with compassion towards others.

[ATC Sanctity of Life form.pdf](#)

102.5 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law and will be maintained by the Executive Director of the Maryland Alcohol, Tobacco, and Cannabis Commission or their designee (Md. Const. Art. I § 10; Md. Code PS § 3-309).

Policy Manual

103.1 PURPOSE AND SCOPE

The manual of the Maryland Alcohol, Tobacco, and Cannabis Commission is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, procedures, rules and guidelines of this agency. All members are to conform to the provisions of this manual.

All prior and existing manuals, orders and regulations that conflict with this manual are rescinded, except to the extent that portions of existing manuals, orders, and other regulations that have not been included herein shall remain in effect where they do not conflict with the provisions of this manual.

103.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement is not always predictable and that circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this agency under the circumstances reasonably available at the time of any incident.

103.3 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Maryland Alcohol, Tobacco, and Cannabis Commission and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the State, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for agency administrative action, training or discipline. The Maryland Alcohol, Tobacco, and Cannabis Commission reserves the right to revise any policy content, in whole or in part.

103.4 AUTHORITY

The Executive Director shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Executive Director or the authorized designee is authorized to issue General Orders, which shall modify those provisions of the manual to which they pertain. General Orders shall remain in effect until such time as they may be permanently incorporated into the manual.

103.5 DEFINITIONS

The following words and terms shall have these assigned meanings, unless it is apparent from the content that they have a different meaning:

Adult - Any person 18 years of age or older (Md. Code CJ § 3-8A-01).

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APS - Adult Protective Services.

State - The State of Maryland

Civilian - Employees and volunteers who are not sworn peace officers.

CJIS - Maryland Criminal Justice Information System.

COMAR - Maryland Code of Regulations (Example: COMAR 10.38.03.02).

Custodian of Records - The authorized person having physical custody and control of the records of the Agency (Md. Code GP § 4-101).

Agency/ATCC - The Maryland Alcohol, Tobacco, and Cannabis Commission.

DJS - Maryland Department of Juvenile Services.

DPSCS - Maryland Department of Public Safety and Correctional Services.

Employee - Any person employed by the Agency.

Manual - The Maryland Alcohol, Tobacco, and Cannabis Commission Policy Manual.

May - Indicates a permissive, discretionary, or conditional action.

Md. Code - Maryland Annotated Codes (Example: Md. Code PS § 1-301). The following are abbreviations for sections of the Maryland Annotated Codes referenced in this Policy Manual:

- **AB** – Alcoholic Beverages and Cannabis
- **BR** - Business Regulation
- **CJ** - Courts and Judicial Procedure
- **CL** - Commercial Law
- **CP** - Criminal Procedure
- **CR** - Criminal Law
- **CS** - Correctional Services
- **ED** - Education
- **EL** - Election Law
- **ET** - Estates and Trusts
- **FL** - Family Law
- **GP** - General Provisions
- **HG** - Health – General
- **HS** - Human Services
- **IL** - Insurance Law
- **LE** - Labor and Employment

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- **LG** - Local Government
- **NR** - Natural Resources
- **PS** - Public Safety
- **SG** - State Government
- **SP** - State Personnel and Pensions
- **TG** - Tax – General
- **TR** - Transportation

Md. Const. - Maryland Constitution (Example: Md. Const. Art. IV § 44).

MDOT - Maryland Department of Transportation.

Member - Any person employed or appointed by the Maryland Alcohol, Tobacco, and Cannabis Commission, including:

- Full- and part-time employees
- Sworn Peace Officers
- Reserve, auxiliary agents
- Civilian employees
- Volunteers
- Commissioners

METERS - Maryland Electronic Telecommunications Enforcement Resource System.

Motor vehicle - As defined in the Transportation Article of the Annotated Code of Maryland.

MPTSC - Maryland Police Training and Standards Commission.

MSP - Department of Maryland State Police.

MVA - Motor Vehicle Administration.

OAG - Maryland Office of the Attorney General.

Agent - Those employees, regardless of rank, who are sworn members of the Maryland Alcohol, Tobacco, and Cannabis Commission.

On-duty - A member's status during the period when the member is actually engaged in the performance of assigned duties.

Order - A written or verbal instruction issued by a superior.

Peace Officer - Those employees, regardless of rank, who are sworn members of the Maryland Alcohol, Tobacco, and Cannabis Commission.

Rank - The title of the classification held by an agent.

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Shall or will - Indicates a mandatory action.

Should - Indicates a generally required or expected action, absent a rational basis for failing to conform.

Supervisor - A person in a position of authority that may include responsibility for assignment, reward, or discipline of other agency members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

The term "supervisor" may also include any person (e.g., Director, Agent-in-Charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank, or compensation.

When there is only one agency member on duty, that person may also be the supervisor, except when circumstances reasonably require the notification or involvement of the member's off-duty supervisor or an on-call supervisor.

103.6 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the agency network for viewing and printing. No changes shall be made to the manual without authorization from the Executive Director or the authorized designee.

Each member shall acknowledge that he/she has been provided access to and has had the opportunity to review the Policy Manual and General Orders. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

103.7 PERIODIC REVIEW OF THE POLICY MANUAL

The Executive Director or designee, will ensure that the Policy Manual is periodically reviewed and updated as necessary.

103.8 REVISIONS TO POLICIES

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

Each supervisor will ensure that members under his/her command are aware of any Policy Manual revision.

All agency members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their supervisors, who will consider the recommendations and forward them to the executive staff as appropriate.

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

This policy establishes the organizational structure of the Agency and defines general responsibilities of agency members.

200.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will implement and maintain an organizational structure that provides clear and identifiable roles for command, control and guidance of the Agency. Each position and assignment should have clearly identified responsibilities and a defined chain of command.

200.3 DIVISIONS

The Executive Director is responsible for administering and managing the Maryland Alcohol, Tobacco, and Cannabis Commission. There are four divisions in the Agency:

- Licensing, Research, and Trade Practices Division
- Field Enforcement Division
- Legal and Legislative Division
- Finance, Administration, and Accountability Division

200.3.1 LICENSING, RESEARCH, AND TRADE PRACTICES DIVISION

The Licensing, Research, and Trade Practices Division is led by a Division Director, whose primary responsibility is to manage the agency's mission through three key units: Licensing, Trade Practices, and Research. Together, these units manage the licensing and renewal of alcohol and tobacco businesses, ensure adherence to fair trade and ethical business practices, conduct research and data analysis to guide legislative and regulatory decisions, and provide internal administrative support. The division works collaboratively to uphold regulatory compliance, secures various agency property and evidence, protect consumers, promote fair competition, and contributes to public safety and health across Maryland's alcohol, tobacco, and cannabis industries.

200.3.2 FIELD ENFORCEMENT DIVISION

The Field Enforcement Division is led by a Division Director, whose primary responsibility is to provide general management, direction, and control for the Field Enforcement Division. The Field Enforcement Division consists of sworn law enforcement members responsible for enforcing the laws and regulations that govern alcohol, tobacco, and cannabis in the State of Maryland.

200.3.3 LEGAL AND LEGISLATIVE DIVISION

The Legal and Legislative Division is led by a Division Director whose primary responsibility is to provide legal counsel in support of the agency's regulatory, enforcement, and oversight functions. The division drafts and reviews regulations, interprets applicable laws, and ensure compliance

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with Maryland statutes and federal guidelines. It also advises on enforcement actions and supports legislative initiatives that promote public safety, economic development, and responsible industry practices.

200.3.4 ADMINISTRATION, FINANCE, AND ACCOUNTABILITY DIVISION

The Finance, Administration, and Accountability Division is led by a Division Director whose primary responsibility is the oversight of the Alcohol, Tobacco and Cannabis Commission's fiscal, human resources, procurement function, and operational accountability. The Finance, Administration, and Accountability Division is tasked with ensuring that the agency is able to perform its core duties and functions within the resources allocated by the Governor's Office and the Department of Budget and Management.

200.4 COMMAND PROTOCOL

200.4.1 SUCCESSION OF COMMAND

The Executive Director has authority over all members of the Maryland Alcohol, Tobacco, and Cannabis Commission. During planned absences, the Executive Director may designate a Division Director or other appropriate official to serve as Acting Executive Director.

200.4.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Agency. Generally, each member shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment, any supervisor may temporarily direct any subordinate if an operational necessity exists.

200.5 AUTHORITY AND RESPONSIBILITY

Each member will be assigned duties and responsibilities. Each member is delegated the authority necessary to effectively execute those responsibilities. Each member will also be held accountable for the appropriate application of that delegated authority.

General Orders

201.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for issuing General Orders.

201.2 POLICY

General Orders will be used to modify policies of the Maryland Alcohol, Tobacco, and Cannabis Commission when an immediate need to adapt a policy or procedure exists, to best meet the mission of the Agency. Applicable memorandums of understanding/collective bargaining agreements and other alternatives should be considered before a General Order is issued.

201.3 PROTOCOL

General Orders will be incorporated into the Policy Manual, as required, upon approval. General Orders will modify existing policies or create a new policy as appropriate and will be rescinded if incorporated into the manual.

The Director of the Field Enforcement Division or the authorized designee should ensure that all General Orders are disseminated appropriately. General Orders should be numbered consecutively and incorporate the year of issue. All members will be notified when a General Order is rescinded or has been formally adopted into the Policy Manual.

201.4 RESPONSIBILITIES

201.4.1 COMMAND STAFF

Command staff shall periodically review General Orders to determine whether they should be formally incorporated into the Policy Manual, and, as appropriate, will recommend necessary modifications to the Executive Director.

201.4.2 EXECUTIVE DIRECTOR

Only the Executive Director or the authorized designee may approve and issue General Orders.

201.5 ACCEPTANCE OF DIRECTIVES

All members shall be provided with access to the General Orders. Each member shall acknowledge that he/she has been provided with access to, and has had the opportunity to review the General Orders. Members shall seek clarification as needed from an appropriate supervisor for any provisions they do not fully understand.

Training

202.1 PURPOSE AND SCOPE

This policy establishes general guidelines for how training is to be identified, conducted and documented. This policy is not meant to address all specific training endeavors or identify every required training topic.

202.2 POLICY

The Agency shall administer a training program that will meet the standards of federal, state, local and the Maryland Police Training and Standards Commission (MPTSC) training requirements. It is a priority of this agency to provide continuing education and training for the professional growth and development of its members.

202.3 OBJECTIVES

The objectives of the training program are to:

- (a) Enhance the level of law enforcement service to the public.
- (b) Increase the technical expertise and overall effectiveness of agency members.
- (c) Provide for continued professional development of agency members.
- (d) Ensure compliance with MPTSC rules and regulations concerning law enforcement training.

202.4 DIVISION ADMINISTRATOR

The Executive Director shall designate a Division Administrator who is responsible for developing, reviewing, updating, and maintaining the agency training plan so that required training is completed. The Division Administrator should review the training plan annually.

202.5 TRAINING PLAN

It is the responsibility of the Division Administrator to develop, review, update and maintain a training plan and to ensure that mandated basic, in-service and agency-required training is completed by all members as needed or required. The training plan should include the anticipated costs associated with each type of training, including attendee salaries and backfill costs. The plan should include a systematic and detailed method for recording and logging of all training for all members.

While updates and revisions may be made to any portion of the training plan at any time it is deemed necessary, the Division Administrator shall review the entire training plan on an annual basis.

The plan will include information on curriculum, training material, training facilities and scheduling. The plan will address federal, state and agency-required, minimum-mandated training of agents and other members.

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202.5.1 GOVERNMENT-MANDATED TRAINING

The following lists, while not all inclusive, identify training that is required under state and federal laws and regulations.

- (a) Federally mandated training:
 - 1. National Incident Management System (NIMS) training.
- (b) State-mandated training:
 - 1. MPTSC-approved Police Entry Level Training Program or, when applicable, the Comparative Compliance Training Course and successfully pass the licensing examination before being issued a peace officer's license (COMAR 12.04.01.09).
 - 2. MPTSC-approved entrance-level firearms training and qualification (COMAR 12.04.02.04).
 - 3. No less than the MPTSC-required duration of field training (COMAR 12.04.01.17).
 - 4. No less than 18 hours of MPTSC-approved training annually (COMAR 12.04.01.12).
 - 5. Annual MPTSC-approved firearms training and qualification (COMAR 12.04.02.08).
 - 6. Promotion of an agent to a first-line, or higher, supervisor position requires successful completion of MPTSC-approved supervisor training no more than two years preceding, or one year after, the promotion.
 - 7. Promotion of an agent supervisor to a first-line, or higher, administrator position requires successful completion of MPTSC-approved administrator training no more than two years preceding, or one year after, the promotion.
 - 8. If MPTSC-approved supervisor training has not previously been completed, supervisor training shall also be completed within the same timeline.
 - 9. Completion of MPTSC-approved training program on life-saving techniques, including CPR, every two years (Md. Code PS § 3-207; COMAR 12.04.01.12).
 - 10. The proper level and use of force and other related training requirements, including the collection of a signed training completion document from each trainee (Md. Code PS § 3-207; Md. Code PS § 3-524).
 - 11. Sensitivity to cultural and gender diversity (Md. Code PS § 3-207).
 - 12. Issues related to individuals with physical, intellectual, developmental, and psychiatric disabilities (Md. Code PS § 3-207).
 - 13. Any additional training required by the MPTSC (Md. Code PS § 3-207).
- (c) Locally mandated training (including county or city).

Training

202.6 TRAINING COMMITTEE

The Division Administrator may establish a Training Committee, on a temporary or as-needed basis, which will assist with identifying training needs.

The Training Committee should be comprised of at least three members, with the senior ranking member of the committee acting as the chairperson. Committee members should be selected based on their abilities at post-incident evaluation and at assessing related training needs. The Division Administrator may remove or replace members of the committee at his/her discretion.

The Training Committee should review certain incidents to determine whether training would likely improve future outcomes or reduce or prevent the recurrence of the undesirable issues related to an incident. Specific incidents the Training Committee should review include, but are not limited to:

- (a) Any incident involving the death or serious injury of a member.
- (b) Incidents involving a high risk of death, serious injury or civil liability.
- (c) Incidents identified by the Agency to determine possible training needs.

The Training Committee should convene on a regular basis as determined by the Division Administrator, to review the identified incidents. The committee shall determine by consensus whether a training need exists and then submit written recommendations of its findings to the Division Administrator. The recommendation should not identify specific facts of any incidents, such as identities of members involved or the date, time and location of the incident but should focus on the type of training being recommended.

The Division Administrator will consider the recommendations of the committee and determine what training should be addressed, taking into consideration the mission of the Agency and the available resources. Training recommendations as determined by the Division Administrator shall be submitted to the command staff for review.

202.7 TRAINING ATTENDANCE

- (a) All members assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisors. Excused absences should be limited to:
 - 1. Court appearances.
 - 2. Previously approved vacation or time off.
 - 3. Illness or medical leave.
 - 4. Physical limitations preventing the member's participation.
 - 5. Emergency situations or agency necessity.
- (b) Any member who is unable to attend training as scheduled shall notify his/her supervisor as soon as practicable but no later than one hour prior to the start of training and shall:
 - 1. Document his/her absence in a memorandum to his/her supervisor.

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2. Make arrangements through his/her supervisor or the Division Administrator to attend the required training on an alternate date.

202.8 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) are contained in a web-accessed system that provides training on the Maryland Alcohol, Tobacco, and Cannabis Commission Policy Manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Division Administrator.

Members assigned to participate in DTBs shall only use the login credentials assigned to them by the Division Administrator. Members should not share their passwords with others and should frequently change their passwords to protect the security of the system. After each session, members should log off the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Agency.

Members who are assigned to participate in the DTB program should complete each DTB at the beginning of their shift or as otherwise directed by their supervisors. Members should not allow uncompleted DTBs to build up over time, and may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the DTB system can be accessed from any internet-enabled computer, members shall only take DTBs as part of their on-duty assignment, unless directed otherwise by a supervisor.

Supervisors will be responsible for monitoring the progress of those under their command to ensure compliance with this policy.

202.9 TRAINING RECORDS

The Division Administrator is responsible for the creation, filing and storage of all training records. Training records shall be retained in accordance with the established records retention schedule.

Electronic Mail

203.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the electronic mail (email) system provided by the Agency.

203.2 POLICY

Maryland Alcohol, Tobacco, and Cannabis Commission members shall use email in a professional manner in accordance with this policy and current law, remaining aware that emails are subject to public disclosure under the Maryland Public Information Act (Md. Code GP § 4-101 et seq.).

203.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails accessed, transmitted, received or reviewed on any agency technology system (see the Information Technology Use Policy for additional guidance).

203.4 RESTRICTIONS ON USE OF EMAIL

Messages transmitted over the email system are restricted to official business activities, or shall only contain information that is essential for the accomplishment of business-related tasks or for communications that are directly related to the business, administration or practices of the Maryland Alcohol, Tobacco, and Cannabis Commission.

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, and harassing or any other inappropriate messages on the email system is prohibited and may result in discipline.

Email messages addressed to the entire Maryland Alcohol, Tobacco, and Cannabis Commission are only to be used for official business-related items that are of particular interest to all users. In the event that a member has questions about sending a particular email communication, the member should seek prior approval from a supervisor in his/her chain of command.

It is a violation of this policy to transmit a message under another member's name or email address or to use the password of another to log into the system unless directed to do so by a supervisor. Members are required to log off the network or secure the workstation when the computer is unattended. This added security measure will minimize the potential misuse of a member's email, name or password. Any member who believes his/her password has become known to another person shall change their password immediately.

203.5 EMAIL RECORD MANAGEMENT

Email may, depending upon the individual content, be a public record under the Maryland Public Information Act and must be managed in accordance with the established records retention schedule and in compliance with state law (Md. Code SG § 10-610; COMAR 14.18.02.04).

The Custodian of Records shall ensure that email messages are retained and recoverable as outlined in the Records Maintenance and Release Policy.

Administrative Communications

204.1 PURPOSE AND SCOPE

This policy sets forth the manner in which the Agency communicates significant changes to its membership, such as promotions, transfers, hiring and appointment of new members, separations, individual and group awards and commendations, or other changes in status. This policy also provides guidelines for the professional handling of electronic and non-electronic administrative communications from the Agency.

204.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will appropriately communicate significant events within the organization to its members. Both electronic and non-electronic administrative communications will be professional in appearance and comply with the established letterhead, signature and disclaimer guidelines, as applicable.

204.3 PERSONNEL ORDERS

Personnel Orders may be issued periodically by the Executive Director or the authorized designee to announce and document promotions, transfers, military leave of absence, hiring and appointment of new members, reinstatements, separations, individual and group awards and commendations, or other changes in status.

204.4 CORRESPONDENCE

To ensure that the letterhead and name of the Agency are not misused, all official external correspondence shall be on agency letterhead. All agency letterhead shall bear the signature element of the Executive Director. Official correspondence and use of letterhead requires approval of a supervisor. Agency letterhead may not be used for personal purposes.

Official internal correspondence shall be on the appropriate agency electronic or non-electronic memorandum forms.

Electronic correspondence shall contain the sender's agency-approved signature and electronic communications disclaimer language.

204.5 SURVEYS

All surveys made in the name of the Agency shall be authorized by the Executive Director or the authorized designee.

204.6 OTHER COMMUNICATIONS

General Orders and other communications necessary to ensure the effective operation of the Agency shall be issued by the Executive Director or the authorized designee (see the General Orders Policy).

Supervision Staffing Levels

205.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure that proper supervision is available to meet the needs of the Agency and members throughout all Divisions.

205.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will ensure that proper supervision is available to meet the needs of its members and to achieve the goals of the Agency. The needs of its members should be balanced with the needs of the Agency for flexibility and discretion in assigning members to meet supervisory needs. While balance is desirable, the paramount concern is to meet the needs of the Agency

205.3 MINIMUM SUPERVISION STAFFING LEVELS

Minimum staffing levels should be established by the Directors for each Division and work group. The supervision staffing levels should support proper supervision, span of control compliance with any collective bargaining agreements or memorandums of understanding and activity levels to meet the needs of members and the goals of the Agency.

205.3.1 TEMPORARY SUPERVISORS

In order to accommodate training and other unforeseen circumstances, a qualified lower-ranking member may be used as a temporary (acting) supervisor in place of a regularly assigned supervisor.

Retiree Concealed Firearms

206.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of Maryland Alcohol, Tobacco, and Cannabis Commission identification cards under the Law Enforcement Officers' Safety Act (LEOSA) (18 USC § 926C).

206.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to provide identification cards to qualified former or retired agents as provided in this policy.

206.3 LEOSA

The Executive Director may issue an identification card for LEOSA purposes to any qualified former agent of this agency who (18 USC § 926C(c)):

- (a) Separated from service in good standing from this agency as an agent.
- (b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this agency.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this agency where the agent acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

206.3.1 LEOSA IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former agent and identify him/her as having been employed as an agent.

If the Maryland Alcohol, Tobacco, and Cannabis Commission qualifies the former agent, the LEOSA identification card or separate certification should indicate the date the former agent was tested or otherwise found by the Agency to meet the active duty standards for qualification to carry a firearm.

206.3.2 AUTHORIZATION

Any qualified former law enforcement officer, including a former agent of this agency, may carry a concealed firearm under 18 USC § 926C when he/she is:

- (a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:
 - (a) An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement

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agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

- (b) A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
- (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
- (c) Not prohibited by federal law from receiving a firearm.
- (d) Not in a location prohibited by Maryland law or by a private person or entity on his/her property if such prohibition is permitted by Maryland law.

206.4 MARYLAND RETIRED LAW ENFORCEMENT OFFICER IDENTIFICATION CARD

The Executive Director shall provide a retiring agent with an identification card within 45 days after the officer's retirement if the agent (Md. Code PS § 3-513):

- (a) Retired in good standing for reasons other than mental instability.
- (b) Before retirement, was certified by the Maryland Police Training and Standards Commission (MPTSC), had statutory powers of arrest in Maryland and completed an applicable probationary period.

Upon request, any agent who retired prior to Oct. 1, 2015, shall be issued an identification card if the criteria set forth above are satisfied.

206.4.1 MARYLAND RETIRED LAW ENFORCEMENT OFFICER IDENTIFICATION CARD FORMAT

A Maryland retired law enforcement officer identification card shall be in the form approved by the MPTSC and include the information specified in Md. Code PS § 3-513.

206.5 FORMER AGENT RESPONSIBILITIES

A former agent with a card issued under this policy shall immediately notify the Executive Director of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the Reporting of Arrests, Convictions and Court Orders Policy.

The retiree is responsible for obtaining the proper handgun training and qualification for active law enforcement officers. The retiree may obtain handgun certification and a LEOSA certification card from the MPTSC.

206.5.1 RESPONSIBILITIES UNDER LEOSA

In order to obtain or retain a LEOSA identification card, the former agent shall:

- (a) Sign a waiver of liability of the Agency for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all

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acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Agency.

- (b) Remain subject to all applicable Agency policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
- (d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

206.6 DENIAL, SUSPENSION OR REVOCATION

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the Agency. If an identification card is denied, suspended or revoked, the former agent may request a review by the Executive Director. The decision of the Executive Director is final.

206.7 FIREARM QUALIFICATIONS

The Firearms Instructor may provide former agents from this agency an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Firearms Instructor will maintain a record of the qualifications and weapons used

Chapter 3 - General Operations

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this agency is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the agent or another person.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Totality of the circumstances - All facts and circumstances known to the agent at the time, taken as a whole, including the conduct of the agent and the subject leading up to the use of force.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Agents are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Agents 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.

The Maryland Alcohol, Tobacco, and Cannabis Commission recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting Agents with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

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300.2.1 DUTY TO INTERVENE AND REPORT

Any agent present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to prevent the use of unreasonable force (Md. Code PS § 3-524).

Any agent who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible (Md. Code PS § 3-524).

300.2.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each agent should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

300.3 USE OF FORCE

Agents shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the agent at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable agent on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that agents are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an agent might encounter, agents are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which agents reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this agency. Agents may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an agent to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 ALTERNATIVE TACTICS – DE-ESCALATION

When circumstances reasonably permit, agents should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion) (Md. Code PS § 3-524).

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300.3.2 MARYLAND USE OF FORCE STATUTE

Agents may use reasonable force against a person to prevent an imminent threat of physical injury or to effectuate a legitimate law enforcement objective, provided that the force used under the totality of the circumstances reasonably appears necessary and proportional (Md. Code PS § 3-524).

Agents should cease the use of force as soon as the person is under control or no longer poses an imminent threat of physical injury or death, or the force will no longer reasonably accomplish a legitimate law enforcement objective (Md. Code PS § 3-524).

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an agent has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to agents or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the agent at the time.
- (c) Agent/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of agents available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with agent commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the agent.
- (l) Potential for injury to agents, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the agent.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the agent or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.

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- (r) Any other exigent circumstances.

300.3.4 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Agents may only apply those pain compliance techniques for which they have successfully completed agency-approved training. Agents utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the agent.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the agent determines that compliance has been achieved.

300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, agents may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, agents are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, agents should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Agents are encouraged to use techniques and methods taught by the Maryland Alcohol, Tobacco, and Cannabis Commission for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

When reasonable, the agent shall, prior to the use of deadly force, make efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the agent has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving an imminent threat or an imminent risk:

- (a) An agent may use deadly force to protect themselves or others from what the agent reasonably believes is an imminent threat of death or serious bodily injury.
- (b) An agent may use deadly force to stop a fleeing subject when the agent has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the agent reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

However, an agent shall not use deadly force against a person whose actions are a threat solely to themselves or property unless the person poses an imminent danger of death or serious physical injury to the agent or others in close proximity.

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Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an agent reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the agent or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the agent believes the individual intends to do so.

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force.

When feasible, agents should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An agent should only discharge a firearm at a moving vehicle or its occupants when the agent reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the agent or others.

Agents should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this agency shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The agent should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Agency may require the completion of additional report forms, as specified in agency policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 REPORTING DEADLINE

Any use of force by a member of this agency shall be documented as required by state law and as directed in the Report Preparation Policy (Md. Code PS § 3-514; Md. Code PS § 3-524).

300.5.2 NOTIFICATIONS TO SUPERVISORS

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

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable agent to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the conducted energy device or control device.

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- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance 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 (Md. Code PS § 3-524). Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the agent'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 agent 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.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling agent 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 agent reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

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

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved agents. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.

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- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 - 1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
 - 2. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.7.1 FIELD ENFORCEMENT DIVISION DIRECTOR RESPONSIBILITY

The Field Enforcement Division Director shall review each use of force by any personnel within the Field Enforcement Division Director's command to ensure compliance with this policy and to address any training issues (Md. Code PS § 3-524).

The Agent Supervisor or other appropriate supervisor should respond to the scene and gather and review all known video recordings in any incident where a use of force by an agent is reasonably believed to have caused serious physical injury as defined by Md. Code CR § 3-201 (Md. Code PS § 3-524).

300.8 TRAINING

Agents shall receive annual training on this policy and demonstrate their knowledge and understanding.

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Subject to available resources, agents should receive periodic training on guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

300.8.1 TRAINING REQUIREMENTS

Required annual training shall include:

- (a) Legal updates.
- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intervene.
- (d) The duty to request and/or render medical aid.
- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of deadly force, choke holds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).

300.9 USE OF FORCE ANALYSIS

At least annually, the Field Enforcement Division Director should prepare an analysis report on use of force incidents. The report should be submitted to the Executive Director. The report should not contain the names of agents, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

Use of Force Review Boards

301.1 PURPOSE AND SCOPE

This policy establishes a process for the Maryland Alcohol, Tobacco, and Cannabis Commission to review the use of force by its members.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or the evaluation of the use of force.

301.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will objectively evaluate the use of force by its members to ensure that their authority is used appropriately and consistent with training and policy.

301.3 ADMINISTRATIVE ASSIGNMENT

Generally, whenever a member's actions or use of force in an official capacity, or while using agency equipment, results in death or very serious injury to another, that member will be placed in a temporary administrative assignment by the Executive Director. The Executive Director may exercise discretion and choose not to place a member in an administrative assignment.

301.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to another.

The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the member was on- or off-duty, excluding training or recreational use.

The Executive Director may request the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

The Division Administrator will convene the Use of Force Review Board as necessary. It will be the responsibility of the Division Director or supervisor of the involved member to notify the Division Administrator of any incidents requiring board review. The involved member's Division Director or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

301.4.1 COMPOSITION OF THE BOARD

The Division Director should staff the Use of Force Review Board with five individuals from the following, as appropriate:

- Agent in Charge of each area
- Agent in Charge from the involved member's chain of command

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- Division Administrator
- Non-administrative supervisor
- A peer agent/agency member
- A law enforcement officer from an outside law enforcement agency, as appropriate
- Agency instructor for the type of weapon, device or technique used

The senior ranking Agent in Charge who is not in the chain of command as the involved member will serve as chairperson.

301.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information.

The board does not have the authority to recommend discipline.

The board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, the decision not to file criminal charges or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

The review shall be based upon those facts which were reasonably believed or known by the agent at the time of the incident, applying any legal requirements, agency policies, procedures and approved training to those facts. Facts later discovered but unknown to the involved member at the time shall neither justify nor call into question a member's decision regarding the use of force.

The board shall make one of the following recommended findings:

- (a) The member's actions were within agency policy and procedure.
- (b) The member's actions were in violation of agency policy and procedure.

The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Executive Director.

The Executive Director shall review the recommendation, make a final determination as to whether the member's actions were within policy and procedure, and will determine whether any additional actions, investigations or reviews are appropriate. Those findings will be forwarded to the involved member's Director for review and appropriate action. If the Executive Director concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Executive Director.

Handcuffing and Restraints

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

302.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and agency training. Restraint devices shall not be used to punish, to display authority or as a show of force.

302.3 USE OF RESTRAINTS

Only members who have successfully completed Maryland Alcohol, Tobacco, and Cannabis Commission-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, agents should carefully balance officer safety concerns with factors that include, but are not limited to:

- The circumstances or crime leading to the arrest
- The demeanor and behavior of the arrested person
- The age and health of the person
- Whether the person is known to be pregnant
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes
- Whether the person has any other apparent disability

302.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain a person who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of agents and others. When deciding whether to remove restraints from a detainee, agents should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

302.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and should not be restrained by the use of leg restraints or waist chains. Handcuffs behind the body should not be used unless the agent has a reasonable suspicion that the person may resist, attempt escape, injure themselves or others, or damage property (Md. Code CS § 1-101; Md. Code CS § 9-601).

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No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances, and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the detainee, agents, or others (Md. Code CS § 1-101; Md. Code CS § 9-601). See the Transporting Persons in Custody Policy for guidelines relating to transporting pregnant persons.

302.3.3 RESTRAINT OF JUVENILES

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the agent has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the agent or damage property.

302.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Agency. Agents should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, agents should not conclude that in order to avoid risk every person should be handcuffed regardless of the circumstances.

In most situations, handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the person or may cause unreasonable discomfort due to the person's size, agents should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

302.5 APPLICATION OF SPIT HOODS

Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the agent reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Agents utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Agents should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Agents should avoid comingling those wearing spit hoods with other detainees.

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Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head and clothing, prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

302.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg restraints, and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort, and mobility.

Only agency-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

302.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the agency shall be used.

In determining whether to use the leg restraint, agents should consider:

- (a) Whether the agent or others could be exposed to injury due to the assaultive or resistant behavior of a person.
- (b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting agent while handcuffed, kicking at objects or agents).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints, the following guidelines should be followed:

- (a) If practicable, agents should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the agent arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on their stomach for an extended period, as this could reduce the person's ability to breathe.

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- (d) The restrained person should be continually monitored by and agent while in the leg restraint. The agent should ensure that the person does not roll onto and remain on their stomach.
- (e) The agent should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

302.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the agent shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report. Agents should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

302.9 TRAINING

The Division Administrator should ensure that agents receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the agency.
- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg restraints, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.
- (e) Proper placement of safely secured persons into an upright or seated position to avoid placement on the stomach for an extended period, as this could reduce the person's ability to breathe.

Control Devices

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

303.2 POLICY

In order to control individual subjects who are violent or who demonstrate the intent to be violent, the Maryland Alcohol, Tobacco, and Cannabis Commission authorizes agents to use control devices in accordance with the guidelines in this policy and the Use of Force Policy. The Executive Director may also authorize other positions or individual agency members to use specific control devices.

303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this agency only if the device has been issued by the Agency or approved by the Executive Director or the authorized designee.

Only those members who have successfully completed agency-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a person who is violent or who demonstrates the intent to be violent and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

303.4 RESPONSIBILITIES

303.4.1 FIELD ENFORCEMENT DIRECTOR RESPONSIBILITIES

The Field Enforcement Director may authorize the use of a control device by selected agency members or those in specialized assignments who have successfully completed the required training.

303.4.2 LEAD FIREARMS INSTRUCTOR RESPONSIBILITIES

The Lead Firearms Instructor shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Lead Firearms Instructor or the designated instructor for a particular control device. The inspection shall be documented.

303.4.3 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

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Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Firearms Instructor for disposition. Documentation shall also be forwarded through the chain of command, when appropriate, explaining the cause of damage.

303.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the agent reasonably believes the suspect poses an imminent threat of serious bodily injury or death to him/herself or others.

Agents may carry the baton as authorized and in accordance with the needs of their assignments or at the direction of their supervisors.

303.6 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, OC spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in, violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of agency members or the public.

303.6.1 OC SPRAY

Field Agents and non-field members may carry OC spray as authorized, in accordance with the needs of their assignments or at the direction of their supervisors.

303.6.2 TREATMENT FOR OC EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those who complain of further severe effects shall be examined by appropriate medical personnel.

303.7 POST-APPLICATION NOTICE

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, the owners or available occupants should be provided with notice of the possible presence of residue which could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean-up will be at the owner's expense. Information regarding how and when the notice was delivered and the individuals notified should be included in related reports.

303.8 TRAINING FOR CONTROL DEVICES

The Division Administrator shall ensure that those members who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

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- (b) All training and proficiency for control devices will be documented in the member's training file.
- (c) Members who fail to demonstrate proficiency with the control device or knowledge of the Use of Force Policy will be provided remedial training. If a member cannot demonstrate proficiency with a control device or knowledge of the Use of Force Policy after remedial training, the member will be restricted from carrying the control device and may be subject to discipline.

303.9 REPORTING USE OF CONTROL DEVICES

Any application of a control device shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

Agent-Involved Shootings and Deaths

304.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action of an agent.

In other incidents not covered by this policy, the Executive Director may decide that the investigation will follow the process provided in this policy.

304.2 POLICY

The policy of the Maryland Alcohol, Tobacco, and Cannabis Commission is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

304.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- (a) A criminal investigation of the suspect's actions.
- (b) A criminal investigation of the involved officer's actions.
- (c) An administrative investigation as to policy compliance by involved agents.
- (d) A civil investigation to determine potential liability.

304.4 CONTROL OF INVESTIGATIONS

Investigators from the agency with jurisdiction and authority will be requested to work on the criminal investigation of agent-involved shootings and deaths. This may include at least one investigator from the Maryland Alcohol, Tobacco and Cannabis Commission.

The Office of the Attorney General's (OAG) Independent Investigations Division ("IID") and the Maryland State Police ("MSP") will lead the investigation of all alleged or potential agent-involved deaths of civilians as mandated by Maryland Annotated Code, State Government Article, §6-602. Jurisdiction is determined by the location of the shooting or death and the agency employing the involved agent. The following scenarios outline the jurisdictional responsibilities for investigating agent-involved shootings and deaths.

304.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime.

304.4.2 CRIMINAL INVESTIGATIONS OF AGENT ACTIONS

The control of the criminal investigation into the involved agent's conduct during the incident will be determined by the agency in whose jurisdiction the incident occurred.

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Requests made of this agency to investigate a shooting or death involving an outside agency's officer shall be referred to the Executive Director or the authorized designee for approval.

304.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

304.5 INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

304.5.1 UNINVOLVED AGENT RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved ATCC agent will be the agent-in-charge and assume the responsibilities of a supervisor until properly relieved. This agent should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Agency or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

304.5.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved ATCC supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any ATCC agent to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the **[**watchcomm**]** and **[**ComCenter**]**. If feasible, sensitive information should be communicated over secure networks.

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- (d) Take command of and secure the incident scene with additional ATCC members until properly relieved by another supervisor, or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 - 1. Each involved ATCC agent should be given an administrative order not to discuss the incident with other involved officers or ATCC members pending further direction from a supervisor.
 - 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other agents.

304.5.3 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Executive Director
- Field Enforcement Division Director
- Agent In Charge
- Agent Outside agency investigators
- Human Resources
- Agency legal counsel
- Psychological / peer support personnel
- Chaplain
- Medical Examiner (if necessary)
- Involved agent's agency representative (if requested)
- Public Information Officer

304.5.4 INVOLVED AGENTS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 - 1. Involved ATCC agents shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 - 2. Requests from involved non-ATCC officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives will be privileged only as to the discussion of non-criminal information.

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- (d) A licensed psychotherapist shall be provided by the Agency to each involved ATCC agent. A licensed psychotherapist may also be provided to any other affected ATCC members, upon request.
 - 1. Interviews with a licensed psychotherapist will be considered privileged.
 - 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, the involved member shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 - 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Communications between the involved agent and a peer support member is addressed in the Wellness Program Policy.

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved ATCC agent shall be given reasonable paid administrative leave (as allowed by Md. Code PS § 3-107) following an officer-involved shooting or death. It shall be the responsibility of the [**watchcomm**] to make schedule adjustments to accommodate such leave.

304.6 CRIMINAL INVESTIGATION

It shall be the policy of this agency to utilize the Office of the State's Attorney to conduct an independent criminal investigation into the circumstances of any officer-involved shooting or death, except for those investigations that are controlled by state law.

If available, investigative personnel from this agency may be assigned to partner with investigators from outside agencies or the Office of the State's Attorney to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) ATCC supervisors and Human Resources personnel should not participate directly in any voluntary interview of ATCC agents. This will not prohibit such personnel from monitoring interviews or indirectly providing topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of the agent's choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, agents shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally, or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration

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should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.

- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

304.6.1 ATTORNEY GENERAL INVESTIGATION

The Maryland Office of the Attorney General (OAG) has authority to investigate all officer-involved incidents that result in the death of civilians or injuries likely to result in death (Md. Code SG § 6-602). The Executive Director or the authorized designee should promptly notify the appropriate division within the OAG of all incidents involving an officer-involved death or serious injury of a civilian, and the Agency should cooperate with any subsequent investigation (Md. Code PS § 3-527). In these investigations, any direction provided by the OAG supersedes any contrary direction contained in agency policy.

304.6.2 REPORTS BY INVOLVED ATCC AGENTS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this agency shall retain the authority to require involved ATCC agents to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved ATCC agent may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved ATCC agents of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

304.6.3 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.

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2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Agency.
 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

304.6.4 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Field Enforcement Division supervisor to assign appropriate investigation personnel to handle the investigation of related crimes. Agency investigators will be assigned to work with investigators from the Office of the State's Attorney and may be assigned to separately handle the investigation of any related crimes not being investigated by the Office of the State's Attorney.

All related agency reports, except administrative and/or privileged reports, will be forwarded to the designated Field Enforcement Division supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Director.

304.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this agency will conduct an internal administrative investigation of involved ATCC agents to determine conformance with agency policy. This investigation may be conducted with the assistance of Human Resources and will be considered a confidential agent personnel file.

Interviews of members shall be subject to agency policies and applicable laws.

- (a) Any agent involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the agent, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency (Md. Code PS § 3-107).
- (b) If any agent has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved agent.

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1. If a further interview of the agent is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved agent shall be provided with a copy of the agent's prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved agent has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the agent's physical and psychological needs have been addressed before commencing the interview.
 2. If requested, the agent shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual agent's statement, involved agents shall not consult or meet with a representative collectively or in groups prior to being interviewed.
 3. Administrative interviews shall be recorded by the investigator. The agent may also record the interview.
 4. The agent shall be informed of the nature of the investigation. If an agent refuses to answer questions, the agent should be given *Garrity* rights and ordered to provide full and truthful answers to all questions. The agent shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 5. Human Resources shall review all relevant information and reports necessary for the Agency to determine compliance with applicable policies.
 6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
 7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

304.8 CIVIL LIABILITY RESPONSE

A member of this agency may be assigned to work exclusively under the direction of the legal counsel for the Agency to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

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304.9 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video or other video or audio recordings with the approval of assigned investigators or a supervisor.

Any MAV, body-worn video and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or Assistant Attorney General's Office, as appropriate.

304.10 DEBRIEFING

Following an officer-involved shooting or death, the Maryland Alcohol, Tobacco, and Cannabis Commission should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

304.10.1 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Executive Director should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

304.11 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation. Releases will be available to the Field Enforcement Division Director and Public Information Officer in the event of inquiries from the media.

No involved ATCC agent shall make any comment to the media unless he/she is authorized by the Executive Director or a Director.

Agency members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

Firearms

305.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

305.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will equip its members with firearms to address the risks posed to the public and agency members by violent and sometimes well-armed persons. The Agency will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

When on-duty, Agents shall carry the Agency-issued handgun. The Executive Director may authorize those agents in administrative or technical assignments to wear either the issued handgun or an approved personal handgun loaded with Agency-approved ammunition.

When on-duty, the handgun may be carried in a plain view manner provided that the agent's badge is prominently worn (i.e., next to the handgun or on a chain around the neck), except when inappropriate (e.g., situations where immediate recognition as a police officer could have adverse consequences or compromise an investigation); under these circumstances the issued handgun and badge shall be concealed but readily accessible on the agent's person.

305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Agency and have been thoroughly inspected by a Firearms Instructor. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized agency range (COMAR 12.04.02.03).

All other weapons not provided by the Agency, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by agency policy, may not be carried by members in the performance of their official duties without the express written authorization of the Director of Field Enforcement. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

305.3.1 HANDGUNS

The authorized agency-issued handgun is the SIG Sauer Model P320X Compact Carry 9mm.

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305.3.2 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive written approval from the Director of Field Enforcement or the authorized designee. Once approved, personally owned duty firearms are subject to the following restrictions:

- (a) The firearm shall be in good working order and on the agency list of approved firearms.
- (b) The firearm shall be inspected by a Firearms Instructor prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the agency qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (d) Members shall provide written notice of the make, model, serial number and caliber of the firearm to the Firearms Instructor, who will maintain a list of the information.

305.3.3 AUTHORIZED SECONDARY HANDGUN

Members desiring to carry agency or personally owned secondary handguns are subject to the following restrictions:

- (a) The handgun shall be in good working order and on the agency list of approved firearms.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the agency.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by a Firearms Instructor prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be approved by the Director of Field Enforcement or the authorized designee. Ammunition will be factory ammunition and not reloaded in any manner.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the agency qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly (COMAR 12.04.02.03).
- (h) Members shall provide written notice of the make, model, serial number and caliber of a secondary handgun to the Firearms Instructor, who will maintain a list of the information.

305.3.4 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by members while off-duty is permitted by the Director of Field Enforcement but may be rescinded should circumstances dictate (e.g., administrative leave). Members who choose to carry a firearm while off-duty, based on their authority as peace officers, will be required to meet the following guidelines:

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- (a) A personally owned firearm shall be used, carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy.
 - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to a Firearms Instructor for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by a Firearms Instructor.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Firearms Instructor that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner and that the holster is appropriate, in good condition, and approved by the Firearms Instructor
- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, serial number and caliber of the firearm to the Firearms Instructor, who will maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry agency-authorized ammunition.
- (i) When armed, agents shall carry their badges and Maryland Alcohol, Tobacco, and Cannabis Commission identification cards under circumstances requiring possession of such identification along with their Maryland Police Training Commission Card.

305.3.5 AMMUNITION

Members shall carry only agency-authorized ammunition. Replacements for unserviceable or depleted ammunition issued by the Agency shall be dispensed by a Firearms Instructor when needed, in accordance with established policy.

Members carrying personally owned authorized firearms of a caliber differing from agency-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

305.3.6 FIREARMS CONVERSION

An Agent shall successfully complete firearms conversion requirements before being authorized to use or carry a different type of firearm than the agent is currently authorized to use or carry (COMAR 12.04.02.09).

305.4 EQUIPMENT

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

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305.4.1 REPAIRS OR MODIFICATIONS

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor and a Firearms Instructor.

Firearms that are the property of the Agency or personally owned firearms that are approved for agency use may be repaired or modified only by a person who is agency-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Agency Armorer.

Any repairs or modifications to the member's personally owned firearm shall be done at his/her expense and must be approved by a Firearms Instructor

305.4.2 HOLSTERS

Only agency-approved holsters shall be used and worn by members. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

305.5 SAFE HANDLING, INSPECTION AND STORAGE

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Firearms Instructor. Members shall not dry fire or practice quick draws except as instructed by the Firearms Instructor or other firearms training staff.
- (c) Members shall not place or store any firearm or other weapon on any agency premises except where the place of storage is locked or as required by any detention facility.
- (d) Any firearm authorized by the Agency to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Agency Armorer or a Firearms Instructor approved by the Agency for inspection and repair. Any firearm deemed in need of repair or service by the Agency Armorer or Firearms Instructor will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

305.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. All firearms shall be pointed in a safe direction when loading or unloading.

305.5.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, a vehicle equipped with a safe, or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Handcuffs may be utilized to lock firearms to structural components of the vehicle's interior, and the firearm

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shall be covered to conceal it from view. Members shall not permit agency-issued firearms to be handled by anyone not authorized by the agency to do so. Members should be aware that negligent storage of a firearm could result in civil liability.

305.5.3 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the member's senses or judgment.

305.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete annual training with their duty firearms. Members will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on the required range course meeting minimum standards and requirements (COMAR 12.04.02.08; COMAR 12.04.02.05).

Agents may not use or carry a firearm that has been surrendered or for which authority to carry or use has been withdrawn, except during supervised training to meet the annual firearms training and qualification requirements (COMAR 12.04.02.08(E)(3)).

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall submit a memorandum to the Director of Field Enforcement and his/her immediate supervisor prior to the end of the required training or qualification period.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.
- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
 - 1. Unauthorized range make-up.
 - 2. Failure to meet minimum standards or qualify after remedial training.

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

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305.6.2 ANNUAL FIREARMS NON-CERTIFICATION

If an agent fails to successfully complete the annual firearms classroom instruction, training and qualification requirements for an authorized firearm within a calendar year, the Director of Field Enforcement (COMAR 12.04.02.08(E)(1)):

- (a) Shall remove the firearm, or the authorization to use or carry the firearm if personally owned, from the agent by January 1 of the next calendar year.
- (b) May not return or authorize the agent to use or carry the firearm until the agent successfully completes the appropriate firearms classroom instruction, training and qualification.

305.6.3 ANNUAL FIREARMS NON-QUALIFICATION

An agent who fails an annual firearms qualification shall successfully complete the annual qualification within 30 consecutive calendar days of the initial attempt (COMAR 12.04.02.08(E)(2)).

If an agent does not successfully meet the qualification requirements, the Director of Field Enforcement shall immediately:

- Report the agent's failure to qualify to the Maryland Police Training and Standards Commission (MPTSC).
- Require the agent to surrender all agency firearms.
- Withdraw the agent's authority to use or carry personally owned firearms.

305.7 FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to their supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the member shall file a written report with their supervisor or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, the member shall file a written report or provide a recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

305.7.1 DESTRUCTION OF ANIMALS

Members are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

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In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, agency members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, oleoresin capicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed, becomes impractical, or if the animal reasonably appears to pose an imminent threat to human safety.

305.7.2 INJURED ANIMALS

When a domestic animal is injured in a traffic accident, the member shall notify the appropriate local organization to give such injured animal medical care (Md. Code TR § 20-106).

A member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

305.7.3 WARNING AND OTHER SHOTS

Generally, shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the member reasonably believes that they appear necessary, effective, and reasonably safe.

Warning shots shall not be used.

305.8 FIREARMS INSTRUCTOR DUTIES

The range will be under the exclusive control of the Firearms Instructor. All members attending will follow the directions of the Firearms Instructor. The Firearms Instructor will maintain a roster of all members attending the range and will submit the roster to the Division Administrator after each range date. Failure of any member to sign in and out with the Firearms Instructor may result in non-participation or non-qualification.

A Firearms Instructor has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this agency to verify proper operation. A Firearms Instructor has the authority to deem any agency-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm; it will not be returned to service until it has been inspected and approved by a Firearms Instructor.

A Firearms Instructor has the responsibility for ensuring each member meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the member is authorized to carry.

A Firearms Instructor shall complete and submit to the Division Administrator documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the Agency, a list of each member who completes the training. A Firearms Instructor should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Division Administrator.

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The Division Administrator shall report firearm qualification scores for each firearm the agent is authorized to use or carry to the Director of Field Enforcement by January 15 of the calendar year immediately following firearms qualification. The Director of Field Enforcement shall submit the report to the MPTSC by January 31 (COMAR 12.04.02.08(D)).

305.9 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to agents who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Agents wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Agency based on the law and published TSA rules.
- (b) Agents must carry their Maryland Alcohol, Tobacco, and Cannabis Commission identification card, bearing the agent's name, a full-face photograph, identification number, the agent's signature and the signature of the Executive Director or the official seal of the Agency and must present this identification to airline officials when requested. The agent should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).
- (c) The Maryland Alcohol, Tobacco, and Cannabis Commission must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the agent's travel. If approved, TSA will send the Maryland Alcohol, Tobacco, and Cannabis Commission an NLETS message containing a unique alphanumeric identifier. The agent must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Executive Director authorizing armed travel may also accompany the agent. The letter should outline the agent's need to fly armed, detail his/her itinerary, and include that the agent has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Agents must have completed the mandated TSA security training covering agents flying while armed. The training shall be given by the agency-appointed instructor.
- (f) It is the agent's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any agent flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The agent must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Agents should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.

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- (j) Agents shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

305.10 CARRYING FIREARMS OUT OF STATE

Qualified, active, full-time agents of this agency are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

Agents are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base, or park. Federal authority may not shield an agent from arrest and prosecution in such locally restricted areas.

- (a) The agent shall carry their Maryland Alcohol, Tobacco, and Cannabis Commission identification card whenever carrying such firearm.
- (b) The agent may not be the subject of any current disciplinary action.
- (c) The agent may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The agent will remain subject to this and all other agency policies (including qualifying and training).

Active law enforcement officers from other states are subject to all requirements set forth in 18 USC § 926B.

Vehicle Pursuits

306.1 PURPOSE AND SCOPE

This policy provides guidelines for vehicle pursuits in order to protect the safety of involved agents, the public and fleeing suspects.

306.1.1 DEFINITIONS

Definitions related to this policy include:

Blocking or vehicle intercept - A slow-speed coordinated maneuver where two or more pursuing 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. Blocking is not a moving or stationary road block.

Boxing-in - A tactic designed to stop a suspect's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

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

Ramming - 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.

Roadblocks - A tactic designed to stop a suspect's vehicle by intentionally placing a law enforcement vehicle or other immovable object in the path of the suspect's vehicle.

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

Tire deflation device - A device designed to puncture the tires of the pursued vehicle.

Trail - Following the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit.

Vehicle pursuit - An event involving one or more law enforcement officers attempting to apprehend a suspect, who is attempting to avoid arrest while operating a vehicle by using high-speed driving or other evasive tactics, such as driving off a highway, turning suddenly or driving in a legal manner but willfully failing to yield to an agent's emergency signal to stop.

306.2 POLICY

In the interest of public safety and in recognition of the Maryland Alcohol, Tobacco, and Cannabis Commission's (ATCC) limited law enforcement authority, ATCC agents are strictly prohibited from engaging in vehicle pursuits under any circumstances. Pursuits pose a significant risk to the safety of the community, bystanders, and law enforcement personnel, and such actions exceed the ATCC's regulatory and enforcement scope. Any agent encountering a situation requiring immediate intervention beyond their authority shall promptly notify local or state

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law enforcement agencies to ensure appropriate response and resolution in accordance with established jurisdictional protocols.

Agent Response to Calls

307.1 PURPOSE AND SCOPE

This policy provides agents with guidelines for the safe and appropriate vehicular response to emergency and non-emergency incidents or requests for assistance, whether these are dispatched or self-initiated.

307.2 POLICY

It is the policy of this agency to appropriately respond to emergency and nonemergency calls for service or requests for assistance, whether these are dispatched or self-initiated.

307.3 RESPONSE TO CALLS

Agents responding to nonemergency calls shall proceed accordingly, unless they are sent or redirected to a higher priority call, and shall obey all traffic laws.

307.3.1 EMERGENCY CALLS

Agents should only respond to a call as an emergency response when so dispatched or when circumstances reasonably indicate an emergency response is required. This includes, but is not limited to (Md. Code TR § 21-106):

- (a) When in pursuit or apprehending a violator or suspected violator.
- (b) When responding to a reported emergency involving possible personal injury, death or significant property damage.
- (c) When immediate assistance is requested by an agent or other law enforcement agency.

If an agent believes an emergency response to any call is appropriate, the agent shall immediately notify a supervisor.

Agents not responding to a call as an emergency response shall observe all traffic laws and proceed without the use of emergency lights and siren.

307.4 REQUESTING EMERGENCY ASSISTANCE

When requesting emergency assistance, the involved agency member should reasonably believe there is an imminent threat to the safety of him/herself or another person, or that assistance is needed to prevent imminent serious harm to the public.

If circumstances permit, the requesting member should provide the following information:

- Identifying call sign
- Location of the emergency situation
- Suspect information, including weapons
- Reason for the request and type of emergency
- The number of agents or resources required

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- Hazards and any known or potential dangers for responding agents.

In any event where a situation has stabilized and emergency response is not required, the requesting member shall immediately notify a supervisor.

307.5 SAFETY CONSIDERATIONS

Agents responding to an emergency call shall proceed immediately as appropriate and shall continuously operate the emergency vehicle lighting and siren as required by law (Md. Code TR § 21-106(c)).

Responding with emergency lights and siren does not relieve the operator of an emergency vehicle of the duty to continue to drive with due regard for the safety of all persons and property, and does not protect the operator from the consequences of reckless disregard for the safety of others. However the agent may, when responding to a call with an emergency response, and provided there is no endangerment or unnecessary risk to persons and property (Md. Code TR § 21-106(b)):

- Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- Exceed the speed limit.
- Disregard regulations governing direction of movement or turning in specified directions.
- Park or stand without regard to parking restrictions.

307.5.1 NUMBER OF AGENTS ASSIGNED

Only the number of agents that are reasonably necessary should be assigned to respond to an emergency call or request for assistance.

An emergency response involving more than one police vehicle should be coordinated by the supervisor, who will make a determination regarding the appropriateness of the response and reduce or enhance the response as warranted.

307.6 EMERGENCY EQUIPMENT

Vehicles not equipped with emergency lights and siren are prohibited from initiating or joining in an emergency response. Agents in such vehicles may provide support to pursuing vehicles as long as the vehicles are operated in compliance with all traffic laws. Those agents should terminate their involvement in any emergency response immediately upon arrival of a sufficient number of emergency law enforcement vehicles.

If the emergency equipment on the vehicle should fail to operate, the agent must terminate the emergency response and continue accordingly. The agent shall notify the field supervisor of the equipment failure so that another agent may be assigned to the emergency response.

307.7 AGENT RESPONSIBILITIES

The decision to initiate or continue an emergency response is at the discretion of the agent. If, in the agent's judgment, the weather, traffic and road conditions do not permit such a response

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without unreasonable risk, the agent may elect to respond to the call without the use of emergency lights and siren at the legal speed limit. In such an event, the agent should immediately notify the Supervisor. An agent shall also discontinue an emergency response when directed by a supervisor or as otherwise appropriate.

Upon receiving authorization or determining that an emergency response is appropriate, whenever practicable, an agent shall immediately give the location from which he/she is responding.

The first agent arriving at the emergency call should determine whether to increase or reduce the level of the response of additional agents and shall notify the supervisor of his/her determination. Any subsequent change in the appropriate response level should be communicated to the Supervisor by the agent on the scene unless a supervisor assumes this responsibility.

307.8 SUPERVISOR RESPONSIBILITIES

Upon being notified that an emergency response has been initiated or requested, the field supervisor shall verify that:

- (a) The proper response has been initiated.
- (b) No more than those agents reasonably necessary under the circumstances are involved in the response.
- (c) Affected outside jurisdictions are being notified as practicable.

The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing agents into or out of the response, if necessary. If, in the supervisor's judgment, the circumstances require additional agents to be assigned an emergency response, the supervisor may do so.

It is the supervisor's responsibility to terminate an emergency response that, in his/her judgment is inappropriate due to the circumstances.

When making the decision to authorize an emergency response, the field supervisor should consider the following:

- The type of call or crime involved
- The type and circumstances of the request
- The necessity of a timely response
- Weather, traffic and road conditions
- The location of the responding agents and the location of the incident

Search and Seizure

308.1 PURPOSE AND SCOPE

Both the federal and state constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Maryland Alcohol, Tobacco, and Cannabis Commission personnel to consider when dealing with search and seizure issues.

308.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to respect the fundamental privacy rights of individuals. Members of this agency will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this agency will comply with relevant federal and state law governing the seizure of persons and property.

The Agency will provide relevant and current training to agents as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate

308.3 SEARCHES

The United States Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this agency is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, agents are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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308.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

- (a) Members of this agency will strive to conduct searches with dignity and courtesy.
- (b) Agents should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) Whenever practicable, a search should not be conducted by a lone agent. A cover agent should be positioned to ensure safety and should not be involved in the search.
- (f) When the person to be searched is of the opposite sex as the searching agent, a reasonable effort should be made to summon an agent of the same sex as the subject to conduct the search. When it is not practicable to summon an agent of the same sex as the subject, the following guidelines should be followed:
 1. Another agent or a supervisor should witness the search.
 2. The agent should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

308.5 DOCUMENTATION

Agents are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- Reason for the search
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
- What, if any, injuries or damage occurred
- All steps taken to secure property
- The results of the search, including a description of any property or contraband seized
- If the person searched is the opposite sex, any efforts to summon an agent of the same sex as the person being searched and the identification of any witness agent.

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and agency policy have been met.

Equal Employment Opportunity

309.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Agency:

- (a) Administers and enforces State and federal equal employment opportunity laws and policies.
- (b) Promotes and supports a professional work environment free from any unlawful discrimination, harassment, and retaliation
- (c) Assists in the building of a well diversified workforce for Maryland State government employees and applicants.

This policy is guided by and consistent with the following authorities:

- Title VII of the Civil Rights Act of 1964
- Civil Rights Act of 1991
- Americans With Disabilities Act of 1990
- Age Discrimination in Employment Act of 1967
- Equal Pay Act of 1963
- State Personnel and Pensions Article, Annotated Code of Maryland, § 2-302 and Title 5, Subtitle 2
- Executive Order 01.01.2007.16 – Code of Fair Employment Practices
- State Government Article, Title 20, Annotated Code of Maryland
- Maryland Code of Regulations, Department of Budget and Management, 17.04.08
- Equal Employment Opportunity Investigations for State Law Enforcement Officers Policy and Procedure
- Maryland Public Information Act
- Maryland Sexual Harassment Policy and Procedures

309.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discrimination, harassment, including sexual harassment, and retaliation. The Agency will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Agency will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.

The nondiscrimination policies of the Agency may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

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Members of the Maryland Alcohol, Tobacco, and Cannabis Commission are also responsible for complying with the Department of Budget and Management's Anti-Bullying Policy.

[See attachment: Bullying in the Workplace Policy revised 10 01 2024.pdf](#)

309.3 DEFINITIONS

Definitions related to this policy include:

309.3.1 DISCRIMINATION

The Agency prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment, can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or agency equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to agency policy and to a work environment that is free of discrimination.

Protected Class:

- Marital Status
- National Origin
- Race
- Religion
- Sex
- Sexual Orientation
- Age
- Ancestry
- Color
- Creed
- Disability

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- Gender Identity/Expression
- Genetic Information
- Pregnancy
- Military Status
 - Member of the Uniformed Services
 - Reservist
 - Dependent

309.3.2 HARASSMENT

Harassment is any unwelcome verbal, written, physical, or visual conduct that is based on an individual's protected class, such as race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, disability, genetic information, or any other classification protected by law.

Conduct constitutes harassment when:

- Enduring the conduct becomes a condition of continued employment or participation in an agency program or activity; or
- The conduct is severe or pervasive enough to create a work or service environment that a reasonable person would consider intimidating, hostile, or abusive.

Harassment may include, but is not limited to:

- Offensive jokes, slurs, epithets, or name-calling
- Physical assaults or threats
- Intimidation, ridicule, or mockery
- Insults or put-downs
- Display of offensive materials or objects
- Interference with work performance

All members are expected to maintain a professional and respectful environment and to report any instances of harassment promptly through the appropriate channels.

309.3.3 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

309.3.4 SEXUAL HARASSMENT

The Agency prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

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Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly as a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

309.3.5 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission and the Maryland Commission on Civil Rights guidelines.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with State or agency rules or regulations, or any other appropriate work-related communication between supervisor and member.

309.4 RESPONSIBILITIES

This policy applies to all agency members, who are expected to adhere to its intent in a manner consistent with agency policy, professional standards, and the best interests of the Agency and its mission.

The Equal Employment Opportunity (EEO) Officer is responsible for ensuring full cooperation from all agency employees throughout the complaint process and during any related investigations.

Members are encouraged to promptly report any conduct that may constitute discrimination, harassment, retaliation, or a violation of this policy. Reports may be made to a supervisor or directly to the agency EEO Officer. If a member is uncomfortable reporting through the chain of command, they may bypass their immediate supervisor and report the matter to a higher-ranking supervisor or manager. Complaints may also be filed with the Executive Director, Human Resources Administrator, the Maryland Office of Fair Practices, or the Governor's Office.

Any member who believes, in good faith, that they have been subjected to discrimination, harassment, or retaliation—or who has observed such conduct—is encouraged to report it promptly, following the procedures outlined in this policy.

Supervisors and managers who receive reports or become aware of potential policy violations must assess whether the allegation has merit and take appropriate steps toward resolution in accordance with the procedures that follow.

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309.4.1 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Executive Director, the Human Resources Administrator, or the Governor for further information, direction, or clarification.

309.4.2 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Executive Director or the Human Resources Administrator in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

309.4.3 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Agency and professional standards.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline in a manner that is consistent with established procedures.

309.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Agency that all complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

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309.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable, or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor, or the agency EEO.

309.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, a formal investigation will be conducted.

An employee or applicant for employment, may file a complaint of discrimination with their anyone within their chain of command, the Executive Director, fair practices officer or equal employment opportunity officer.

- (a) Complaints must be filed within one year (1 year) after first knowing or reasonably knowing of the alleged violation.
- (b) A complaint filed under SPP Title 5-211 (A) (2) alleging harassment in violation of § 20-606 (a) (5) of the State Government Article must be filed within two years (2 years) after the alleged violation that is the basis for the complaint. This includes but is not limited to sexual harassment complaints and bullying complaint that include a protected status basis.
- (c) The complaint should be made in writing.
- (d) Within thirty (60) days, the EEO Officer shall investigate the complaint and recommend a proposed decision to the head of the principal unit.
- (e) The head of the principal unit (or designee) shall issue a written decision to the Complainant and may grant an appropriate relief

The agency EEO and/or the person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but not be limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the agency EEO, Executive Director, Human Resources Administrator, or the Governor.

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309.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Agency. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

309.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on the appropriate forms and in a manner designated by the Executive Director. The outcome of all reports shall be:

- (a) Approved by the Executive Director, the Governor, or the Human Resources Administrator, depending on the ranks of the involved parties.
- (b) Maintained in accordance with the established records retention schedule.

309.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

309.6.2 APPEAL PROCESS

A complainant who is dissatisfied with the outcome of their complaint may request further review through the following appeal process:

- (a) Within ten (10) days after receiving a decision, a Complainant may appeal the decision in writing to the Statewide EEO Coordinator.
- (b) Within thirty (30) days after receiving an appeal, the Coordinator shall review the complaint and the decision being appealed, conduct any necessary investigation, and determine if a violation has occurred.
- (c) If it is determined that a violation has not occurred, the complaint shall be dismissed and the decision is final.
- (d) If it is determined that a violation has occurred, appropriate remedial action shall be taken.

309.6.3 ELECTION OF PROCEDURES

Employees in the State Personnel Management System may elect to pursue an allegation of employment discrimination under (1) the aforementioned complaint procedure or (2) the grievance procedure in Title 12 of the State Personnel and Pensions Article of the Annotated Code of Maryland.

In addition to filing a complaint according to this complaint procedure, an employee or applicant for employment, may also file a complaint of discrimination with the Maryland Commission on Civil Rights (MCCR) or the U.S. Equal Employment Opportunity Commission (EEOC), or in court.

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309.7 AMERICANS WITH DISABILITIES ACT

The State of Maryland is dedicated to full compliance with the reasonable accommodation requirements and the Americans with Disabilities Act.

No employee shall be retaliated against for seeking a reasonable accommodation for a disability.

See attachment: [Maryland Reasonable Accommodation Policy and Procedures pdf Updated February 2023.pdf](#)

309.8 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Agency.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

Standards of Conduct

310.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Maryland Alcohol, Tobacco, and Cannabis Commission and are expected of all agency members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions, but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this agency or a member's supervisors.

310.2 POLICY

The continued employment or appointment of every member of this agency shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

310.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any agency supervisor or person in a position of authority, absent a reasonable and bona fide justification.

310.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or agency policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, agency policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

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310.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiescing to such a violation or exhibiting indifference to such a violation.
- (d) Exercising unequal or disparate authority toward any member for malicious or other improper purpose.

310.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and Maryland constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

310.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient agency service:

310.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate, any policy, procedure, rule, order, directive or requirement, or failure to follow instructions contained in agency or State manuals.
- (b) Disobedience of any legal directive or order issued by any agency member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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310.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Maryland Alcohol, Tobacco, and Cannabis Commission in any way that could reasonably be perceived as an attempt to gain influence or authority for nonagency business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this agency and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

310.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

310.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on duty or through the use of one's official capacity.
- (b) Engaging in on duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this agency.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know, of such criminal activities, except as specifically directed and authorized by this agency.

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310.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without a reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without a reasonable excuse.

310.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this agency.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this agency for personal or financial gain or without the express authorization of the Executive Director or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any agency property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) Using agency resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and nonsubpoenaed records.

310.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Agency within 24 hours of any change in residence address or contact numbers.
- (f) Failure to notify Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

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310.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts or making any false or misleading statement on any application, examination form, or other official document, report, or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive, or the willful and unauthorized removal, alteration, destruction, and/or mutilation of any agency record, public record, book, paper, or document.
- (c) Failure to participate in investigations, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any agency-related business.
- (d) Being untruthful or knowingly making false, misleading, or malicious statements that are reasonably calculated to harm the reputation, authority, or official standing of this agency or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this agency or subverts the good order, efficiency, and discipline of this agency or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on agency premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any agency equipment or system.
 - 3. Gambling activity undertaken as part of an agent's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches, or distribution of campaign literature for or against any political candidate or position while on-duty, on agency property, or while in any way representing themselves as members of this agency, except as expressly authorized by State policy, the collective bargaining agreement or memorandum of understanding, or the Executive Director (Md. Code PS § 3-110).
- (h) Engaging in political activities during assigned working hours except as expressly authorized by State policy, the collective bargaining agreement or memorandum of understanding, or the Executive Director (Md. Code PS § 3-110).
- (i) Any act on- or off-duty that tends to bring discredit to this agency.

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310.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency and results in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this agency or the State.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform while in public view or contact.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this agency.
- (i) Unauthorized possession of, loss of, or damage to agency property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of agency property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of agency property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any employment agreement, including fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Executive Director of such action.
- (m) Any other on- or off-duty conduct that any member knows or reasonably should know is unbecoming a member of this agency, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this agency or its members.

310.5.10 SAFETY

- (a) Failure to observe or violating agency safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling including loading or unloading firearms in an unsafe manner, either on- or off-duty.

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- (e) Carrying, while on the premises of the work site, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic accident.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

310.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Information Technology Use

311.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of agency information technology resources, including computers, electronic devices, hardware, software and systems.

311.1.1 DEFINITIONS

Definitions related to this policy include:

Computer system -

All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Maryland Alcohol, Tobacco, and Cannabis Commission, and the Maryland Department of Information Technology (DoIT), that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Agency or agency funding.

Hardware - Includes but is not limited to computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems, or any other tangible computer device generally understood to comprise hardware.

Software - Includes but is not limited to all computer programs, systems, and applications including shareware and firmware. This does not include files created by the individual user.

Temporary file, permanent file, or file - Any electronic document, information, or data residing or located, in whole or in part, on the system including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs, or videos.

311.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Agency in a professional manner and in accordance with this policy and the policy of the Maryland Department of Information Technology (DoIT)

311.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts or anything published, shared, transmitted or maintained through file-sharing software or any Internet site that is accessed, transmitted, received or reviewed on any agency computer system.

The Agency reserves the right to access, audit and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Agency, including the agency e-mail system, computer network or any information placed into storage on any agency system or device. This includes records of all keystrokes or web-browsing history made at any agency computer or over

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any agency network. The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through agency computers, electronic devices or networks.

Although the Agency may not require access to a member's personal accounts, it may require a member to disclose a user name, password, or other means for accessing non-personal accounts or services that provide access to agency computer or information systems (Md. Code LE § 3-712(b)).

311.4 RESTRICTED USE

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or their supervisor.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

311.4.1 SOFTWARE

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes, in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any agency computer. Members shall not install personal copies of any software on any agency computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the Maryland DoIT staff and with the authorization of the Executive Director or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Agency while on agency premises, computer systems or electronic devices. Such unauthorized use of software exposes the Agency and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as a part of the automated maintenance or update process of agency- or State-approved or installed programs by the original manufacturer, producer or developer of the software. Any other introduction of software requires prior authorization from Maryland DoIT staff and a full scan for malicious attachments.

311.4.2 HARDWARE

Access to technology resources provided by or through the Agency shall be strictly limited to agency-related activities. Data stored on or available through agency computer systems shall only be accessed by authorized members who are engaged in an active investigation, assisting in an active investigation, or who otherwise have a legitimate law enforcement or agency-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

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311.4.3 INTERNET USE

Internet access provided by or through the Agency shall be strictly limited to agency-related activities. Internet sites containing information that is not appropriate or applicable to agency use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, gambling, chat rooms, and similar or related Internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information from the Internet shall be limited to messages, mail and data files.

311.5 PROTECTION OF SYSTEMS AND FILES

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the computer system.

Members shall ensure agency computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off, and password protections enabled whenever the user is not present. Access passwords, logon information, and other individual security data, protocols, and procedures are confidential information and are not to be shared. Password length, format, structure, and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor. Passwords for accounts that access CJI are governed by the CJIS Access, Maintenance, and Security Policy.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the internet) to a supervisor.

311.6 INSPECTION AND REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Agency involving one of its members or a member's duties, an alleged or suspected violation of any agency policy, request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download, or otherwise obtain any and all temporary or permanent files residing or located in or on the agency computer system when requested by a supervisor or during the course of regular duties that require such information.

Report Preparation

312.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to those members of the Agency who complete investigations and reports as a part of their duties.

312.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that members shall act with promptness and efficiency in the preparation and processing of all reports. Reports shall document sufficient information to refresh the member's memory and shall provide enough detail for follow-up investigation and successful prosecution.

312.3 EXPEDITIOUS REPORTING

An incomplete report, unorganized reports or reports that are delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or to a special priority made necessary under exceptional circumstances.

312.4 REPORT PREPARATION

Reports should be sufficiently detailed for their purpose and free from errors prior to submission and approval. It is the responsibility of the member to complete and submit all reports within 5 business days unless permission to hold the report has been approved by a supervisor (Md. Code PS § 3-514). Generally, reports requiring prompt follow-up action on active leads or arrest reports where the suspect remains in custody should not be held.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard, or assimilated by any other sense, and any actions taken. Members shall not suppress, conceal, or distort the facts of any reported incident, nor shall any member make a false report orally or in writing. Generally, the reporting member's opinions should not be included in reports unless specifically identified as such.

Generally, reports will be submitted through the Records Management System (RMS).

312.4.1 HANDWRITTEN OR TYPED REPORTS

County, state and federal agency forms may be block printed unless the requirement for typing is apparent. Supervisors may require block printing or typing of reports of any nature for agency consistency.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting member will be required by the reviewing supervisor to promptly make corrections and resubmit the report.

In general, the narrative portion of reports where an arrest is made or when there is a long narrative should be typed or dictated. Members who dictate reports shall use appropriate grammar, as the content is not the responsibility of the typist.

Members who generate reports on computers are subject to all requirements of this policy.

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312.4.2 ELECTRONIC SIGNATURES

The password the member uses to log on to an agency computer is their electronic signature, as logging onto such a device would not be possible without the password.

312.5 REQUIRED REPORTING

In all of the following situations, members shall complete reports using the appropriate agency-approved forms and reporting methods, unless otherwise approved by a supervisor.

The reporting requirements are not intended to be all-inclusive. A member may complete a report if he/she deems it necessary or as directed by a supervisor.

312.5.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution.

Activity to be documented in a written report includes:

- (a) All arrests and citations
- (b) All felony crimes.
- (c) All Inspections
- (d) When property is seized.
- (e) When an incident number is assigned.
- (f) Situations covered by separate policy. These include:
 - 1. Use of Force Policy.
 - 2. A traffic stop initiated by the agent that the vehicle is operating in a manner that is an imminent danger to the public

312.5.2 NON-CRIMINAL ACTIVITY

Non-criminal activity to be documented includes:

- (a) Any found property or found evidence.
- (b) All protective custody and welfare detentions.
- (c) Any use of force by members of this agency against any person (see the Use of Force Policy).
- (d) Any firearm discharge (see the Firearms Policy).
- (e) Any time a member points a firearm at any person.
- (f) Any traffic accidents above the minimum reporting level (see the Traffic Accidents Policy).
- (g) Whenever the member believes the circumstances should be documented or at the direction of a supervisor.

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312.5.3 AGENCY PERSONNEL OR PROPERTY

Incidents involving Agency personnel or property shall require a report when:

- (a) An injury occurs as the result of an act of an agency employee or on agency property.
- (b) There is damage to agency property or equipment.

312.6 REVIEW AND CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should complete a correction form stating the reasons for rejection.

The original report and the correction form should be returned to the reporting member for correction as soon as practicable. It shall be the responsibility of the originating member to ensure that any report returned for correction is processed in a timely manner.

312.6.1 CHANGES AND ALTERATIONS

Reports that have been approved by a supervisor and submitted for filing and distribution shall not be modified or altered except by way of a supplemental report.

Reviewed reports that have not yet been submitted may be corrected or modified by the authoring member only with the knowledge and authorization of the reviewing supervisor.

Media Relations

313.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of official agency information to the media. It also addresses coordinating media access to scenes of criminal investigations, and other law enforcement activities.

313.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to protect the privacy rights of individuals, while releasing non-confidential information to the media regarding topics of public concern. Information that has the potential to negatively affect investigations will not be released.

313.3 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Executive Director. In situations not warranting immediate notice to the Executive Director and in situations where the Executive Director has given prior approval, Directors and designated Public Information Officers (PIOs) may prepare and release information to the media in accordance with this policy and applicable laws regarding confidentiality.

313.4 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of agency members and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the media, nor should media representatives be invited to be present at such actions except with the prior approval of the Executive Director.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Executive Director will consider, at a minimum, whether the release of information or the presence of the media would unreasonably endanger any individual or prejudice the rights of any person or is otherwise prohibited by law.

313.5 MEDIA REQUESTS

Any media request for information or access to a law enforcement incident shall be referred to the PIO, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, members shall consider the following:

- (a) At no time shall any member of this agency make any comment or release any official information to the media without prior approval from a supervisor or the PIO.
- (b) In situations involving multiple agencies or government departments, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this agency.

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- (c) Under no circumstance should any member of this agency make any comment to the media regarding any law enforcement incident not involving this agency without prior approval of the Executive Director. Under these circumstances the member should direct the media to the agency handling the incident.

313.6 ACCESS

Authorized media representatives shall be provided access to scenes of criminal investigations, and other law enforcement activities as required by law.

Access by the media is subject to the following conditions:

- (a) The media representative shall produce valid media credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives should be prevented from interfering and may be removed for interfering with emergency operations and criminal investigations.
 - 1. Based upon available resources, reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the PIO or other designated spokesperson.
- (c) Media interviews with individuals who are in custody should not be permitted without the approval of the Executive Director and the express written consent of the person in custody.
- (d) No member of this agency who is under investigation shall be subjected to media visits or interviews without the consent of the involved member.

313.6.1 CRITICAL OPERATIONS

A critical incident or tactical operation should be handled in the same manner as a crime scene, except the media should not be permitted within the inner perimeter of the incident, subject to any restrictions as determined by the supervisor in charge. Agency members shall not jeopardize a critical incident or tactical operation in order to accommodate the media. All comments to the media shall be coordinated through a supervisor or the PIO.

313.7 CONFIDENTIAL OR RESTRICTED INFORMATION

It shall be the responsibility of the PIO to ensure that confidential or restricted information is not inappropriately released to the media (see the Records Maintenance and Release and Personnel Records policies). When in doubt, authorized and available legal counsel should be consulted prior to releasing any information.

313.7.1 EMPLOYEE INFORMATION

The identities of agents involved in shootings or other critical incidents may only be released to the media upon the consent of the involved agent or upon a formal request filed and processed in accordance with the Maryland Public Information Act (see the Records Maintenance and Release Policy).

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Any requests for copies of related reports or additional information, including the identity of agents involved in shootings or other critical incidents, shall be referred to the PIO, or if unavailable, the Director. Such requests will be processed in accordance with the provisions of the Maryland Public Information Act (see the Records Maintenance and Release Policy).

313.8 RELEASE OF INFORMATION

The Agency may routinely release information to the media without receiving a specific request. This may include media releases regarding investigations, arrests, matters of public concern, updates on significant events, licensing actions, or information related to the alcohol, tobacco, and cannabis industries regulated by the Agency. Such information may also be shared through the Agency's website or other electronic platforms

Subpoenas and Court Appearances

314.1 PURPOSE AND SCOPE

This policy establishes the guidelines for agency members who must appear in court. It will allow the Maryland Alcohol, Tobacco, and Cannabis Commission to cover any related work absences and keep the Agency informed about relevant legal matters.

314.2 POLICY

Maryland Alcohol, Tobacco, and Cannabis Commission members will respond appropriately to all subpoenas and any other court ordered appearances or administrative hearings.

314.3 SUBPOENAS

Only agency members authorized to receive a subpoena on behalf of the agency or any of its members may do so.

314.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf or at the request of any party other than the Assistant Attorney General or the prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the State or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Maryland Alcohol, Tobacco, and Cannabis Commission.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Maryland Alcohol, Tobacco, and Cannabis Commission.

The supervisor will then notify the Executive Director and the appropriate prosecuting attorney as may be indicated by the case. The Executive Director should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

314.3.2 CIVIL SUBPOENA

The Agency will compensate members who appear in their official capacity on civil matters arising out of their official duties, as directed by the current collective bargaining agreement or memorandum of understanding.

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The Agency should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

314.3.3 OFF-DUTY RELATED SUBPOENAS

The Agency will compensate members who appear in their official capacity on civil matters arising out of their official duties, as directed by the current collective bargaining agreement or memorandum of understanding.

The Agency should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

314.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

314.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Agency.

If a member on standby changes his/her location during the day, the member shall notify the designated agency member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

314.6 COURTROOM PROTOCOL

Members must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are scheduled to appear.

Members shall dress in the business attire.

Members shall observe all rules of the court in which they are appearing and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

314.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

314.7 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current collective bargaining agreement or memorandum of understanding.

Outside Agency Assistance

315.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

315.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this agency.

It is mandated by law that to increase efficiency and accuracy in the performance of their respective duties and responsibilities relating to alcohol and tobacco, the Maryland Alcohol, Tobacco, and Cannabis Commission and the Comptroller shall cooperate and share information and personnel in investigations of licensed premises and other locations and materials relating to the enforcement of the alcohol and tobacco laws of the State.

Both agencies will cooperate and share information and personnel in other matters relating to the manufacture, processing, importation, taxation, sale, and service of alcohol and tobacco in the State; and enter into a memorandum of understanding for cooperative activities in inspections and other enforcement activities relating to the alcohol and tobacco laws of the State.

The Maryland Alcohol, Tobacco, and Cannabis Commission may enter into memoranda of understanding and other cooperative arrangements with federal, State, and local governmental units in carrying out this article and other alcohol and tobacco laws of the State in the interest of reducing duplication of efforts and reducing the overall costs of administration of inspection and enforcement programs to the State.

The Executive Director may also enter into memoranda of understanding and other cooperative arrangements with federal, State, and local governmental units to address operational matters and efficiencies in carrying out this article and other alcohol and tobacco laws of the State.

Md. Code, AB § 1-321

315.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Division Director or their designee for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this agency, the Division Director or their designee may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this agency.

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Agents may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

315.3.1 INITIATED ACTIVITY

Any on-duty agent who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Maryland Alcohol, Tobacco, and Cannabis Commission shall notify his/her supervisor, the Agent In Charge or the Division Director as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

315.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

315.5 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Division Administrator or the authorized designee.

The documentation should include:

- (a) The conditions relative to sharing.
- (b) The training requirements for:
 - 1. The use of the supplies and equipment.
 - 2. The members trained in the use of the supplies and equipment.
- (c) Any other requirements for use of the equipment and supplies.

Copies of the documentation should be provided to the Division Director ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Division Administrator should maintain documentation that the appropriate members have received the required training.

Major Incident Notification

316.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Maryland Alcohol, Tobacco, and Cannabis Commission in determining when, how and to whom notification of major incidents should be made.

316.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this agency to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

316.3 CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Executive Director, the affected Director and the State. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Officer-involved shooting, whether on- or off-duty (see the Officer-Involved Shootings and Deaths Policy for special notification)
- Homicides, suspicious deaths or deaths related to law enforcement activity
- In-custody deaths
- Agency involved traffic accidents with fatalities or severe injuries
- Death of a prominent Maryland Alcohol, Tobacco, and Cannabis Commission official
- Significant injury or death to a member of the Agency, whether on- or off-duty
- Arrest of a member of the Agency or prominent Maryland Alcohol, Tobacco, and Cannabis Commission official
- Equipment failures, utility failures and incidents that may affect staffing or pose a threat to basic police services
- Any other incident, which has or is likely to attract significant media attention

316.4 DIVISION DIRECTOR RESPONSIBILITIES

The Division Director is responsible for making the appropriate notifications. The Division Director shall make reasonable attempts to obtain as much information on the incident as possible before notification and shall attempt to make the notifications as soon as practicable.

316.4.1 COMMAND STAFF NOTIFICATION

In the event an incident occurs as identified in the Criteria for Notification section above, the Executive Director shall be notified along with the affected Division.

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316.4.2 INVESTIGATOR NOTIFICATION

If the incident requires that an investigator respond from home, the immediate supervisor of the appropriate detail shall be notified, who will then contact the appropriate investigator.

316.4.3 PUBLIC INFORMATION OFFICER

After members of the command staff have been notified, the Public Information Officer shall be called if it appears the media may have a significant interest in the incident.

Child and Dependent Adult Safety

318.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this agency.

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation.

318.2 POLICY

It is the policy of this agency to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Maryland Alcohol, Tobacco, and Cannabis Commission will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

318.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, agents should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, agents should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Agents should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, agents should consider reasonable alternatives to arresting a parent, guardian or caregiver in the presence of his/her child or dependent adult.

Whenever it is safe to do so, agents should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the agent at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

318.3.1 AFTER AN ARREST

Whenever an arrest is made, the agent should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

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Agents should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
 - 1. Agents should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), agents should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
 - 1. Except when an existing court order limits contact, the agent should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify child protective services or the adult protective services through the local Departments of Social Services, if appropriate.
- (e) Notify the field supervisor or Agent in Charge of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting agent should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

318.3.2 DURING THE BOOKING PROCESS

During the booking process, the arrestee shall be allowed to make telephone calls to arrange for the care of any child or dependent adult in accordance with the Temporary Custody of Adults Policy.

If an arrestee is unable to arrange for the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

318.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting member will document the following information:

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1. Name
 2. Sex
 3. Age
 4. Special needs (e.g., medical, mental health)
 5. How, where and with whom or which agency the child was placed
 6. Identities and contact information for other potential caregivers
 7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:
1. Name
 2. Sex
 3. Age
 4. Whether he/she reasonably appears able to care for him/herself
 5. Disposition or placement information if he/she is unable to care for him/herself

318.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling agents, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis response telephone number, the appropriate referral information may be provided.

318.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling agent should contact the appropriate welfare service or other agency-approved social service agency to determine whether protective custody is appropriate.

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked law enforcement vehicle or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

318.5 TRAINING

The Division Administrator is responsible to ensure that all members of this agency who may be involved in arrests affecting children or dependent adults receive approved training on effective safety measures when a parent, guardian or caregiver is arrested.

Native American Graves Protection and Repatriation

319.1 PURPOSE AND SCOPE

This policy is intended to ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

319.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

Funerary objects - Objects that, as part of the death rite or ceremony of a Native American culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects are either associated funerary objects or unassociated funerary objects.

Associated funerary objects are any funerary objects related to removed human remains, where the location of the human remains is known. This includes objects that were made exclusively for burial purposes or to contain human remains, regardless of the physical location or existence of any related human remains.

Unassociated funerary objects are any other funerary objects that are identified by a preponderance of the evidence such as:

- Related to human remains but the remains were not removed, or the location of the remains is unknown.
- Related to specific individuals or families.
- Removed from specific burial sites with Native American cultural affiliation.
- Removed from an area where such burial sites are known to have existed, but the site no longer exists.

Native American human remains - Any physical part of the body of a Native American individual.

Objects of cultural patrimony - Objects having ongoing historical, traditional, or cultural importance that is central to the Native American group or culture itself and, therefore, cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

Sacred objects - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

319.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that the protection of Native American human remains, funerary objects, associated funerary objects, unassociated

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funerary objects, sacred objects, or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption, or complicated custody transfer processes.

319.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.5).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.5):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land - The Maryland Historical Trust and the Maryland Commission on Indian Affairs (COMAR 34.04.06.01 et seq.)
- Tribal land - Responsible Indian tribal official

319.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.7).

319.5 DISPOSITION OF REMAINS

This agency shall cooperate with other government agencies, the Maryland Commission on Indian Affairs, the Advisory Committee on Archeology, the Burial Sites and Objects Review Committee and the Maryland Historical Trust to accomplish the appropriate disposition of Native American human remains (COMAR 34.04.06.01 et seq.).

Off-Duty Law Enforcement Actions

320.1 PURPOSE AND SCOPE

This policy is intended to provide guidelines for agents of the Maryland Alcohol, Tobacco, and Cannabis Commission with respect to taking law enforcement action while off-duty.

320.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that agents generally should not initiate law enforcement action while off-duty. Agents are not expected to place themselves in unreasonable peril and should first consider reporting and monitoring the activity. However, any agent who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage or loss may take reasonable action to minimize or eliminate the threat.

320.3 DECISION TO INTERVENE

There is no legal requirement for off-duty agents to take law enforcement action. Agents should consider waiting for on-duty uniformed peace officers to arrive and gather as much accurate intelligence as possible, instead of immediately intervening. However, should an agent decide to intervene, he/she must evaluate whether the action is necessary or desirable, and should take into consideration:

- (a) The potential to be misidentified by other peace officers.
- (b) The potential to be misidentified by members of the public, who may be armed or who may take action.
- (c) The tactical disadvantage of being alone and the possibility of multiple or hidden suspects.
- (d) Limited off-duty firearms capabilities and ammunition.
- (e) The inability to communicate with responding peace officers.
- (f) The lack of equipment, such as body armor, handcuffs or control devices.
- (g) Unfamiliarity with the surroundings, including escape routes.
- (h) The potential for increased risk to bystanders by confronting a suspect or taking action.
- (i) The statutory limits of law enforcement powers

320.3.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary, the agent should attempt to call or have someone else call 9-1-1 to request immediate assistance. If possible, the dispatcher receiving the call

should obtain a description of the off-duty agent from the caller and broadcast that information to responding law enforcement officers.

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Whenever practicable, the agent should loudly and repeatedly identify him/herself as an agent with the Maryland Alcohol, Tobacco, and Cannabis Commission until acknowledged. Official identification should also be displayed when possible.

320.4 CONSIDERATIONS

When encountering a non-uniformed law enforcement officer in public, agents should wait for acknowledgement by the non-uniformed law enforcement officer in case he/she is working in an undercover capacity.

320.4.1 CIVILIAN RESPONSIBILITIES

Civilian members should not become involved in any law enforcement action while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

320.4.2 INCIDENTS OF PERSONAL INTEREST

Agency members should refrain from handling incidents of personal interest (e.g., family or neighbor disputes) and should remain neutral. In such circumstances members should call the responsible agency to handle the matter.

320.5 REPORTING

If prior notification to the appropriate local law enforcement agency is not reasonably possible before taking action, the agent shall notify the agency as soon as reasonably practicable. Agents shall cooperate fully with the agency having jurisdiction by providing statements or reports as requested or as appropriate.

Agents shall notify a supervisor regarding any law enforcement action taken while off- duty.

The supervisor may respond to the location. The supervisor may request assistance from the Division Director or Human Resources, if deemed appropriate.

The Supervisor shall determine whether a criminal or administrative report should be completed by the involved agent.

Agency Use of Social Media

321.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Agency is consistent with the agency mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by agency members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this agency (see the Investigation and Prosecution Policy).

321.1.1 DEFINITIONS

Definitions related to this policy include:

Social media -Forms of electronic communication such as websites for social networking and micro blogging through which users create online communities to share information, ideas, ideals, personal messages, and other content. This includes a wide array of internet-based tools and platforms that allow for the sharing of information, such as the agency website or social networking services.

321.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission may use social media as a method of effectively informing the public about agency services, issues, investigations and other relevant events.

Agency members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

321.3 AUTHORIZED USERS

Only members authorized by the Executive Director or the Communications Officer may utilize social media on behalf of the Agency. Authorized members shall use only agency-approved equipment during the normal course of duties to post and monitor agency-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Executive Director or Communications Officer must approve any proposed social media content that is not routine or previously approved.

Requests to post information over agency social media by members who are not authorized to post should be made through the member's chain of command.

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321.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the agency mission, and that conforms to all agency policies regarding the release of information may be posted.

Examples of appropriate content include:

- (a) Announcements.
- (b) Educational outreach and guidance on compliance with laws and regulations related to the distribution of alcoholic beverages, tobacco products, and cannabis.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the agency mission.
- (e) Media releases.
- (f) Recruitment of personnel.

Authorized members shall review all content prior to posting to ensure that the posting does not contain prohibited content.

321.4.1 INCIDENT-SPECIFIC USE

In instances where timely and accurate public communication is necessary—such as major enforcement actions, license suspensions with public impact, health or safety advisories related to regulated products, or time-sensitive regulatory updates—the Public Information Officer or an authorized designee will be responsible for compiling information for public release. All public communications of this nature must be approved by the Executive Director or their designee prior to dissemination.

321.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Maryland Alcohol, Tobacco, and Cannabis Commission or its members.
- (e) Any information that could compromise the safety and security of agency operations, members of the Agency, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

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Any member who becomes aware of content on this agency's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

321.6 MONITORING CONTENT

The Executive Director will assign a member to review, the use of agency social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content, and the resolution of any issues. The same supervisor should review the agency social media for any posted prohibited content and remove the same upon discovery.

321.7 RETENTION OF RECORDS

The Communications Officer should work with the Custodian of Records to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

Generative Artificial Intelligence Use

322.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for agency use of generative artificial intelligence (GenAI). This policy does not apply to artificial intelligence that is integrated into facial recognition applications, voice recognition applications, biometric access controls, or software that redacts documents or video or similar applications.

Additional guidelines for the use of agency information technology resources are found in the Information Technology Use Policy.

[Interim GenAI Guidance](#)

322.1.1 DEFINITIONS

Definitions related to this policy include:

Generative artificial intelligence (GenAI) - A type of artificial intelligence that is algorithmically trained on one or more large data sets and designed to generate new and unique data (e.g., text, pictures, video) in response to a prompt (generally questions, instructions, images, or video) input by the user.

322.2 POLICY

The use of GenAI systems carries unique benefits within a law enforcement agency, providing ways to increase operational efficiency, enhance agency procedures, and improve the overall effectiveness of the Maryland Alcohol, Tobacco, and Cannabis Commission.

However, the prompts input into GenAI systems can present risks to both individuals and law enforcement agencies by making accessible to the public information such as agency tactics, investigative and training techniques, confidential information (e.g., confidential informants, protected information), active investigations, and security procedures. In addition, without safeguards in place, GenAI can produce unintended discriminatory or biased output as well as content that is inaccurate, misleading, or copyrighted.

It is the policy of the Agency to develop, implement, and use GenAI ethically and responsibly in a way that minimizes potential risk and harm in accordance with the guidelines set forth below.

Any function carried out by a member of the Agency using GenAI is subject to the same laws, rules, and policies as if carried out without the use of GenAI. The use of GenAI does not permit any law, rule, or policy to be bypassed or ignored.

322.3 PROHIBITED USE

Members shall not use GenAI systems to rationalize a law enforcement decision, or as the sole basis of research, interpretation, or analysis of the law or facts related to a law enforcement contact or investigation.

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Members shall not create user accounts in their official capacity or input work-related data (including information learned solely in the scope of their employment) into publicly available GenAI systems unless the system has been approved by the Executive Director or the authorized designee for the intended use.

For restrictions related to hiring, see the Recruitment and Selection Policy.

Chapter 4 - Patrol Operations

Patrol

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

400.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission provides criminal investigation and compliance services 24 hours a day, seven days a week and will prioritize responses to requests for services using available resources to enhance the safety of the public and agency members.

400.3 FUNCTION

The Maryland Alcohol, Tobacco, and Cannabis Commission enforces state laws concerning the sale, manufacture, transportation, storage, and importation of alcohol, tobacco, and cannabis/THC products.

Services will generally be conducted by plain clothes agents in unmarked law enforcement vehicles in assigned jurisdictional areas of Maryland. The function of patrol is to respond to reports of criminal activity, act as a deterrent to crime, conduct business inspections, conduct surveillance, enforce state and local laws, identify community needs and provide support and assistance to the community.

Services include but are not limited to:

- (a) Responding to calls for service.
- (b) Apprehending criminal offenders.
- (c) Conducting overt and covert surveillance.
- (d) Conducting business inspections
- (e) Crime prevention activities, education presentations, and community presentations.

400.4 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the Agency should be shared among all squads and divisions on a timely basis. Members should be provided with opportunities on a regular basis to share information to other divisions or specialized units. Supervisors are encouraged to use email, virtual meetings, formal meetings and informal meetings to share information and intelligence to other squads.

Additionally, information should be shared with outside agencies and the public in conformance with agency policies and applicable laws.

Bias-Based Policing

401.1 PURPOSE AND SCOPE

This policy provides guidance to agency members that affirms the Maryland Alcohol, Tobacco, and Cannabis Commission's commitment to policing that is fair and objective (Md. Code TR § 25-113).

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the agency's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

401.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing or improper profiling - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement. This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

401.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this agency to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an agent from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

401.3.1 OTHER PROHIBITIONS

The Maryland Alcohol, Tobacco, and Cannabis Commission prohibits the illegal use of an individual or group's attire, appearance or mode of transportation, including the fact that an individual rides a motorcycle or wears motorcycle-related paraphernalia, as a factor in deciding to stop and question, take enforcement action, arrest or search a person or vehicle (Md. Code PS § 3-207).

401.4 MEMBER RESPONSIBILITIES

Every member of this agency shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a

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supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

401.4.1 REASON FOR CONTACT

Agents contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved agent should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any agent to document a contact that would not otherwise require reporting.

401.4.2 REPORTING TRAFFIC STOPS

Agents shall not use an individual's race or ethnicity as the sole justification to initiate a traffic stop. However, this does not alter the authority of an agent to make an arrest, conduct a search or seizure, or otherwise fulfill the agent's law enforcement obligations (Md. Code TR § 25-113).

Each time an agent makes a traffic stop, the agent shall report any information as required in the Safety Equipment Repair Orders (SERO), Traffic and Parking Citations Policy (Md. Code TR § 25-113).

401.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved agent and their supervisor in a timely manner.
 - 1. Supervisors should document these discussions in the prescribed manner.
- (b) Supervisors should periodically review Mobile Audio/Video (MAV) recordings, body-worn camera (BWC) media, Mobile Data Terminal (MDT) data, and any other available resource used to document contact between agents and the public to ensure compliance with this policy.
 - 1. Supervisors should document these periodic reviews.
 - 2. Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this agency who discloses information concerning bias-based policing.

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401.6 STATE REPORTING

The Records Section shall compile and submit the required traffic stop data to the Maryland Statistical Analysis Center no later than March 1 of the following calendar year (Md. Code TR § 25-113).

401.7 ADMINISTRATION

The Field Enforcement Division Director should review the efforts of the Agency to provide fair and objective policing, including traffic stop data, and submit an annual report, including public concerns and complaints, to the Executive Director. The annual report should not contain any identifying information about any specific complaint, member of the public or agent. It should be reviewed by the Executive Director to identify any changes in training or operations that should be made to improve service (Md. Code TR § 25-113).

Supervisors should review the annual report and discuss the results with those they are assigned to supervise.

The Field Enforcement Division Director shall also review the annual report generated by the Maryland Statistical Analysis Center analyzing the information submitted by this and other law enforcement agencies (Md. Code TR § 25-113).

401.8 TRAINING

Training on fair and objective policing and review of this policy shall be conducted annually and include:

- (a) Explicit and implicit biases.
- (b) Avoiding improper profiling.

401.8.1 ADDITIONAL STATE REQUIREMENTS

Agents shall complete implicit bias testing and training approved by the Maryland Police Training and Standards Commission upon hiring and annually (Md. Code PS § 3-207).

Ride-Alongs

402.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for a ride-along with members of the Maryland Alcohol, Tobacco, and Cannabis Commission. This policy provides the requirements, approval process, hours of operation and member responsibilities for ride-alongs.

402.2 POLICY

Ride-along opportunities will be provided to the members of the public, State employees and members of this agency to observe and experience first-hand various functions of the Maryland Alcohol, Tobacco, and Cannabis Commission. The term "ride-along" includes riding as a passenger with an agent on patrol or observing the workday of members engaged in other functions within the Agency such as the Field Enforcement Division and Trade Practice Units.

402.3 ELIGIBILITY

A ride-along is available to any residents, business owners, students currently attending class, and those employed within the State of Maryland Alcohol, Tobacco, and Cannabis Commission. Efforts will be made to accommodate all interested persons. However, any applicant may be disqualified without cause from participating.

Factors that may be considered in disqualifying an applicant include, but are not limited to, the following:

- Being under 18 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against this agency or the State
- Denial by any supervisor

402.4 AVAILABILITY

A ride-along is available most days of the week, from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Executive Director.

402.5 REQUESTS TO PARTICIPATE

Generally, ride-along requests will be maintained and scheduled by the Division Director or Designee.[**watchcomm**]. The applicant will complete and sign a ride-along waiver form. Information requested will include a valid state-issued identification card or driver's license number, birth date, address and telephone number.

The Division Director or Designee will schedule a date, based on availability, generally one week after the date of application. If approved, a copy of the waiver form will be forwarded to the appropriate supervisor.

If the request is denied, a representative of this agency will advise the applicant of the denial.

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402.6 PROCEDURES

Once approved, ride-along applicants will be allowed to participate no more than once every six months. An exception may apply to the following law enforcement-involved participants:

- Explorers
- Volunteers
- Chaplains
- Maryland Alcohol, Tobacco, and Cannabis Commission applicants
- Any others with approval of the Division Director.
- Students

An effort will be made to ensure that no more than one member of the public will participate in a ride-along during any given time period. Normally, no more than one ride-along participant will be allowed in agency vehicles at a given time.

402.6.1 CRIMINAL HISTORY CHECK

All ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Maryland Criminal Justice Information System (CJIS) check prior to approval of the ride-along.

402.6.2 SUITABLE ATTIRE

Any person approved to participate in a ride-along is required to be suitably dressed for the conditions and duty as determined by the Agent. Business casual is proper dress. Sandals, t-shirts, tank tops, shorts and ripped or torn pants are not permitted. A supervisor may refuse a ride-along to anyone who is not dressed appropriately.

402.7 MEMBER RESPONSIBILITIES

The assigned agency member shall consider the safety of the ride-along participant at all times. The member shall maintain control over the participant and shall instruct the individual about the conditions that necessarily limit his/her participation. Instructions should include:

- (a) The participant will follow the directions of the agency member.
- (b) The participant will not become involved in any investigation, handling of evidence, discussions with victims or suspects, reading an individual's criminal history or other protected information, or handling any police agency equipment.
- (c) Participation may be terminated at any time by the agency member if the participant interferes with the performance of the member's duties.
 1. If the participant is on a ride-along, the member may return the participant to the point the ride originated.
- (d) Participants may be allowed to continue a ride-along during the transportation and booking process, provided it does not jeopardize their safety.

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- (e) Members will not allow participants to be present in any location or situation that would jeopardize the participant's safety or cause undue stress or embarrassment to a victim or any other member of the public.
- (f) Participants who are not law enforcement officers shall not be permitted to accompany the agency member into a private residence without the express consent of the resident or other authorized person.

The member assigned to provide a ride-along shall advise the supervisor that a ride-along participant is present in the vehicle before going into service. An agent with a ride-along participant should use sound discretion when encountering a potentially dangerous situation. The ride-along may be continued or terminated at any time.

Conduct by a person participating in a ride-along that results in termination of the ride, or is otherwise inappropriate, should be immediately reported to the supervisor. The member should enter comments regarding the reasons for terminating the ride-along on the waiver form.

Upon completion of the ride-along, the member shall return the waiver form to the supervisor.

See attachment: [ATCC Ride_Alone_Waiver.pdf](#)

Response to Bomb Threats

403.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Maryland Alcohol, Tobacco, and Cannabis Commission in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

403.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

403.3 RECEIPT OF BOMB THREAT

Agency members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established agency evidence procedures.

The member receiving the bomb threat should ensure that the Field Enforcement Division Director is immediately advised and informed of the details. This will enable the Field Enforcement Division Director to ensure that the appropriate authorities are notified and personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

403.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

403.4.1 MARYLAND ALCOHOL, TOBACCO, AND CANNABIS COMMISSION FACILITY

If the bomb threat is against the Maryland Alcohol, Tobacco, and Cannabis Commission facility, the Division Director will direct and assign agents as required for coordinating a general evacuation of the ATCC spaces and building, as he/she deems appropriate.

When a member of this agency receives notification of a bomb threat at the Maryland Alcohol, Tobacco, and Cannabis location, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

- (a) The location of the facility.
- (b) The nature of the threat.
- (c) Whether the type and detonation time of the device is known.
- (d) Whether the facility is occupied, and if so, the number of occupants currently on-scene.

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- (e) Whether the individual is requesting [police_sheriffs] assistance at the facility.
- (f) Whether there are any internal facility procedures regarding bomb threats in place, such as:
 - 1. No evacuation of personnel and no search for a device.
 - 2. Search for a device without evacuation of personnel.
 - 3. Evacuation of personnel without a search for a device.
 - 4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Division Director is immediately notified so that the Division Director can communicate with the person in charge of the facility.

403.5 FOUND DEVICE

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- (b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
- (c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:
 - 1. Two-way radios
 - 2. Cell phones
 - 3. Other personal communication devices
- (d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.
- (g) Search the area for secondary devices as appropriate and based upon available resources.
- (h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (i) Promptly relay available information to the Division Director including:
 - 1. The time of discovery.
 - 2. The exact location of the device.
 - 3. A full description of the device (e.g., size, shape, markings, construction).

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4. The anticipated danger zone and perimeter.
5. The areas to be evacuated or cleared.

As in any other crime scene, steps should immediately be taken to preserve the scene. The Division Director should assign agents to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

Citation Releases

404.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of the Maryland Alcohol, Tobacco, and Cannabis Commission with guidance on when to release adults who are suspected offenders on a citation for a criminal offense, rather than having the person held in custody for a court appearance or released on bail.

404.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will consider its resources and its mission of protecting the community when exercising any discretion to release suspected offenders on a citation, when authorized to do so.

404.3 RELEASE

An agent shall charge a suspected offender by citation as follows (Md. Code CP § 4-101(c)):

- (a) Any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment.
- (b) Any other misdemeanor or local ordinance violation not involving serious injury or an immediate health risk for which the maximum penalty of imprisonment is 90 days or less.

404.3.1 ARREST AND RELEASE

An agent who has grounds to make a warrantless arrest for an offense that may be charged by citation may (Md. Code CP § 4-101(c)(3)):

- (a) Issue a citation in lieu of making the arrest.
- (b) Make the arrest and subsequently issue a citation in lieu of continued custody.

404.4 PROHIBITIONS

The release of a suspected offender on a citation is not permitted when the misdemeanor or local ordinance violation involves any of the following (Md. Code CP § 4-101(c)(1)):

- (a) Failure to comply with a peace order under Md. Code CJ § 3-1508.
- (b) Failure to comply with a protective order under Md. Code FL § 4-509.
- (c) Violation of a condition of pretrial or post trial release under Md. Code CP § 5-213.1.
- (d) Possession of an electronic control device after conviction of a drug felony or crime of violence under Md. Code CR § 4-109(b).
- (e) Violation of an out-of-state domestic violence order under Md. Code FL § 4-508.1.
- (f) Abuse or neglect of an animal under Md. Code CR § 10-604.

See the Domestic Violence Policy for release restrictions related to those investigations.

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404.5 CONSIDERATIONS

An agent may charge a defendant by citation provided (Md. Code CP § 4-101(c)(2)):

- (a) The agent is satisfied with the defendant's evidence of identity.
- (b) The agent reasonably believes that the defendant will comply with the citation.
- (c) The agent reasonably believes that the failure to charge on a statement of charges will not pose a threat to public safety.
- (d) The defendant is not subject to arrest for an alleged misdemeanor involving serious injury or immediate health risk or an alleged felony arising out of the same incident.
- (e) The defendant is not subject to arrest based on an outstanding arrest warrant.
- (f) The defendant complies with all lawful orders by the agent.

Foreign Diplomatic and Consular Representatives

405.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Maryland Alcohol, Tobacco, and Cannabis Commission extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

405.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

405.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

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405.4 ENFORCEMENT ACTION

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
 - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
 - 1. Diplomatic-level staff of missions to international organizations and recognized family members
 - 2. Diplomatic agents and recognized family members
 - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
 - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
 - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
 - 2. Support staff of missions to international organizations
 - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
 - 4. Honorary consular officers

405.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

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405.6 DIPLOMATIC IMMUNITY

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No-for official acts Yes otherwise	No for official acts Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts Yes otherwise (note (c))	No immunity or inviolability

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Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity and inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

- (a) This table represents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

Immigration Violations

406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Maryland Alcohol, Tobacco, and Cannabis Commission relating to immigration and interacting with federal immigration officials.

406.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this agency in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

406.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or Maryland constitutions.

406.4 DETENTIONS

An agent shall not inquire about a person's citizenship, immigration status, or place of birth during a detention, a search, or an arrest unless doing so is material to a criminal investigation or intended to provide the person legal protection under the law and the person is advised any related disclosure on the person's part is voluntary (e.g., diplomatic or consular protections) (Md. Code CP § 5–104).

An agent shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Md. Code CP § 5–104).

An agent who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation. If the violation is a criminal violation, the agent may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the agent has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, the agent may continue the detention and

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may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)).

An agent is encouraged to forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities, or the potential to obstruct a separate investigation outweigh the need for the detention.

An agent should notify a supervisor as soon as practicable whenever an individual is being detained for a criminal immigration violation.

406.4.1 SUPERVISOR RESPONSIBILITIES

When notified that an agent has detained an individual and established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see Law Enforcement Authority Policy).

406.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT

Generally, an agent should not notify federal immigration officials when booking arrestees at a jail facility. Any required notification will be handled according to jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

406.6 FEDERAL REQUESTS FOR ASSISTANCE

Requests by federal immigration officials for assistance from this agency should be directed to a supervisor. The Agency may provide available support services, such as traffic control or peacekeeping efforts.

406.7 INFORMATION SHARING

No member of this agency will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials.
- (b) Maintaining such information in agency records.
- (c) Exchanging such information with any other federal, state, or local government entity.

406.7.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

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406.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Field Enforcement Division supervisor assigned to oversee the handling of any related case. The Field Enforcement Division supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
 - 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

406.9 TRAINING

The Division Administrator should ensure agents receive training on this policy.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.

Field Training Officers

407.1 PURPOSE AND SCOPE

This policy provides guidelines for field training that ensure standardized training and evaluation; facilitate the transition from the academic setting to the actual performance of general law enforcement duties; and introduce the policies, procedures and operations of the Maryland Alcohol, Tobacco, and Cannabis Commission. The policy addresses the administration of field training and the selection, supervision, training and responsibilities of the Field Training Officer (FTO) (COMAR 12.04.01.17(F)).

407.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that all newly hired or appointed agent trainees will participate in field training that is staffed and supervised by trained and qualified FTOs.

407.3 FIELD TRAINING

The Agency shall establish minimum standards for field training, which should be of sufficient duration to prepare agent trainees for law enforcement duties and be in compliance with state mandates related to field training (COMAR 12.04.01.17). The field training is designed to prepare trainees for a patrol assignment and ensure they acquire the skills needed to operate in a safe, productive and professional manner, in accordance with the general law enforcement duties of this agency.

Field training (COMAR 12.04.01.17):

- (a) Shall include activities designed to familiarize the individual with the duties of the agent position, as defined and administered by this agency.
- (b) May be conducted in conjunction with an entrance-level training program or a separate training activity provided by a law enforcement agency.
- (c) Shall be no less than the Maryland Police Training and Standards Commission (MPTSC)-required duration.
- (d) Shall be monitored by a certified agent, the Executive Director or the authorized designee.
 - 1. Trainees shall be under the direct supervision of an FTO or other approved agent as provided in COMAR 12.04.01.17(G).
- (e) Should include procedures for:
 - 1. Issuance of training materials to each trainee at the beginning of his/her field training.
 - 2. Daily, weekly and monthly evaluation and documentation of the trainee's performance.

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3. A multiphase structure that includes:
 - (a) A formal evaluation progress report completed by the FTOs involved with the trainee and submitted to the Division Administrator and FTO coordinator.
 - (b) Assignment of the trainee to a variety of shifts and geographical areas.
 - (c) Assignment of the trainee to a rotation of FTOs in order to provide for an objective evaluation of the trainee's performance.
4. The trainee's confidential evaluation of his/her assigned FTOs and the field training process.
5. Retention of all field training documentation in the agent trainee's training file including (COMAR 12.04.01.17(H)):
 - (a) All performance evaluations.
 - (b) A certificate of completion certifying that the trainee has successfully completed the required number of field training hours.

407.4 FTO COORDINATOR

The Executive Director shall delegate certain responsibilities to an FTO coordinator. The coordinator shall be appointed by and directly responsible to the Field Enforcement Division Director or the authorized designee (COMAR 12.04.01.17(C)).

The FTO coordinator may appoint a senior FTO or other designee to assist in the coordination of FTOs and their activities.

The responsibilities of the coordinator include, but are not limited to:

- (a) Assignment of trainees to FTOs.
- (b) Conducting FTO meetings.
- (c) Maintaining and ensuring FTO and trainee performance evaluations are completed.
- (d) Maintaining, updating and issuing agency training materials to each FTO and trainee.
- (e) Developing ongoing training for FTOs.
- (f) Mentoring and supervising individual FTO performance.
- (g) Monitoring the overall performance of field training.
- (h) Keeping the [**watchcomm**] informed through monthly evaluation reports about the trainees' progress.
- (i) Maintaining liaison with FTO coordinators from other law enforcement agencies.
- (j) Maintaining liaison with police academy staff on recruit agent performance during academy attendance.

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- (k) Performing other activities as may be directed by the Field Enforcement Division Director.
- (l) Completing and submitting a written statement to the MPTSC for each recruit upon successful completion of field training (COMAR 12.04.01.17(G)).
- (m) Establishing guidelines and procedures for the evaluation of FTOs and trainees (COMAR 12.04.01.17(F)).

407.4.1 FTO COORDINATOR TRAINING

The FTO coordinator is required to successfully complete the following courses prior to appointment to this position (COMAR 12.04.01.17(C)):

- (a) An MPTSC-approved supervisor training course.
- (b) An MPTSC-approved FTO course.

407.5 FTO SELECTION, TRAINING AND RESPONSIBILITIES

407.5.1 SELECTION PROCESS

The selection of an FTO will be at the discretion of the Executive Director or the authorized designee. Selection will be based on the agent's:

- (a) Desire to be an FTO.
- (b) Experience, which shall include a minimum of four years of patrol experience, two of which shall be with this agency (COMAR 12.04.01.17(D)).
- (c) Demonstrated ability as a positive role model.
- (d) Successful completion of an internal oral interview process.
- (e) Evaluation by supervisors and current FTOs.
- (f) Possession of, or ability to obtain, agency-approved certification.
- (g) Approval by the MPTSC as an FTO (COMAR 12.04.01.17(D)).

An FTO must remain in good standing and may be relieved from FTO duties due to discipline, inappropriate conduct or poor performance.

407.5.2 TRAINING

An agent selected as an FTO shall successfully complete an MPTSC-approved FTO course prior to being assigned as an FTO (COMAR 12.04.01.17(D)).

All FTOs shall successfully complete an FTO update course approved by the MPTSC every four years while assigned to the position of FTO (COMAR 12.04.01.17(D)).

407.5.3 TRAINING MATERIALS

The FTO shall receive training materials outlining the requirements, expectations and objectives of the FTO position. FTOs should refer to their training materials or the FTO coordinator regarding specific questions related to FTO or field training.

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407.5.4 RESPONSIBILITIES

The responsibilities of the FTO include, but are not limited to (COMAR 12.04.01.17(F)):

- (a) Issuing his/her assigned trainee field training materials in accordance with the Training Policy.
 - 1. The FTO shall ensure that the trainee has the opportunity to become knowledgeable of the subject matter and proficient with the skills as set forth in the training materials.
 - 2. The FTO shall sign off all completed topics contained in the training materials, noting the methods of learning and evaluating the performance of his/her assigned trainee.
- (b) Completing and reviewing daily performance evaluations with the trainee each day.
- (c) Completing and submitting a written evaluation on the performance of his/her assigned trainee to the FTO coordinator on a daily basis.
- (d) Completing a detailed weekly performance evaluation of his/her assigned trainee at the end of each week.
- (e) Completing a monthly evaluation report of his/her assigned trainee at the end of each month.
- (f) Providing the shift supervisor with a verbal synopsis of the trainee's activities at the end of each day or during any unusual occurrence needing guidance or clarification.

Contacts and Temporary Detentions

408.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

408.1.1 DEFINITIONS

Definitions related to this policy include:

Consensual encounter - When an agent contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the agent is voluntary.

Field interview (FI) - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the agent's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio/Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - A type of search used by agents in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the agent, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, an agent has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Temporary detention - When an agent intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an agent actually restrains a person's freedom of movement.

408.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the agent, the decision to temporarily detain a person and complete an FI, pat-down search or field photograph shall be left to the agent based on the totality of the circumstances, officer safety considerations and constitutional safeguards.

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408.3 TEMPORARY DETENTIONS

At the commencement of any temporary detention, absent exigent circumstances, an agent should (Md. Code CP § 2-109):

- (a) Display identification to the temporarily detained individual.
- (b) Provide the individual with the agent's name and identification number, the name of the Agency, and the reason for the contact.

408.4 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, an agent may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the agent's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Maryland Alcohol, Tobacco, and Cannabis Commission to strengthen community involvement, community awareness, and problem identification.

408.4.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the agent should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act.
- (b) Actions suggesting that he/she is engaged in a criminal activity.
- (c) Presence in an area at an inappropriate hour of the day or night.
- (d) Presence in a particular area is suspicious.
- (e) Carrying of suspicious objects or items.
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon.
- (g) Location in proximate time and place to an alleged crime.
- (h) Physical description or clothing worn that matches a suspect in a recent crime.
- (i) Prior criminal record or involvement in criminal activity as known by the agent.

408.5 PAT-DOWN SEARCHES

Once a valid stop has been made, and consistent with the agent's training and experience, an agent may pat a suspect's outer clothing for weapons if the agent has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the agent to pursue the investigation without fear of violence.

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Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of weapons is involved.
- (b) Where more than one suspect must be handled by a single agent.
- (c) The hour of the day and the location or area where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other dangerous weapon.

Whenever practicable, a pat-down search should not be conducted by a lone agent. A cover agent should be positioned to ensure safety and should not be involved in the search.

408.5.1 LIMITED SEARCH FOR WEAPONS

An agent may make an inquiry and conduct a limited search of a person if, in light of the agent's observations, information and experience, the agent reasonably believes that (Md. Code CR § 4-206):

- (a) A person may be wearing, carrying or transporting a handgun in violation of the law.
- (b) Because the person possesses a handgun, the person is or presently may be dangerous to the agent or to others.
- (c) Under the circumstances, it is impracticable to obtain a search warrant.
- (d) To protect the agents or others, swift measures are necessary to discover whether the person is wearing, carrying or transporting a handgun.

408.6 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, agents should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, agents should attempt to identify the witness prior to his/her departure.

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- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by agency members.
 - 1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

Public Recording of Law Enforcement Activity

409.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this agency. In addition, this policy provides guidelines for situations where the recordings may be evidence.

409.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission recognizes the right of persons to lawfully record members of this agency who are performing their official duties. Members of this agency will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Agents should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

409.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present.
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
 - 1. Tampering with a witness or suspect.
 - 2. Inciting others to violate the law.
 - 3. Being so close to the activity as to present a clear safety hazard to the agents.
 - 4. Being so close to the activity as to interfere with an agent's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the agents, him/herself or others.

409.4 AGENT RESPONSE

Agents should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, agents should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, agents or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be

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unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an agent could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, agents shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

409.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the agent and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of Agency members, such as how and where to file a complaint.

409.6 SEIZING RECORDINGS AS EVIDENCE

Agents should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
 - 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
 - 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
 - 2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain

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the evidence is to transmit a copy of the recording from a device to a agency-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Evidence Room Policy.

Chapter 5 - Traffic Operations

Departmental Traffic Accidents

500.1 PURPOSE AND SCOPE

This policy provides guidelines for traffic accidents involving state owned vehicles.

500.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to document and conduct an investigation of traffic accidents involving Maryland Alcohol, Tobacco, and Cannabis Commission. An outside agency will be requested to investigate a traffic accident that results in property damage or injury.

When the accident results in injury, members are to render or summons aid to injured victims as needed.

500.3 STATE OWNED VEHICLE

A traffic accident report from an allied agency shall be taken when a State vehicle is involved in a traffic accident that results in property damage or injury.

An incident report may be taken in lieu of a traffic accident report at the direction of a supervisor when the incident occurs entirely on private property or does not involve another vehicle.

Whenever there is damage to a State vehicle, an incident report shall be completed. The agent or supervisor at the scene should direct that photographs be taken of the scene and the vehicle damage.

500.3.1 MEMBER RESPONSIBILITIES

At the scene, the member, if capable, should consider and appropriately address:

- (a) Traffic direction and control.
- (b) First aid for any injured parties if it can be done safely.
- (c) The potential for involvement of hazardous materials.
- (d) The need for additional support as necessary (e.g., traffic control, emergency medical services, fire department, HAZMAT, tow vehicles).
- (e) Clearance and cleanup of the roadway.

500.4 NOTIFICATION

If a traffic accident involves a life-threatening injury or fatality, the agent or member shall notify a supervisor, or if unavailable, the Agent in Charge. The Agent in Charge or any supervisor may assign an investigator or other appropriate personnel to investigate the incident and notify the appropriate law enforcement agency. The Agent in Charge will ensure notification is made to the Director of Field Enforcement, command staff and the Executive Director.

Vehicle Towing

501.1 PURPOSE AND SCOPE

This policy provides guidance related to vehicle towing. Nothing in this policy shall require a member of this agency to tow a vehicle.

501.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will tow vehicles when appropriate and in accordance with the law.

501.3 ARREST SCENES

Whenever the owner or operator of a vehicle is arrested, the arresting agent should provide reasonable safekeeping by leaving the vehicle secured and lawfully parked at the scene or when appropriate, by having the vehicle towed, such as when the vehicle presents a traffic hazard or the vehicle would be in jeopardy of theft or damage if left at the scene.

Agents are not required to investigate whether alternatives to towing a vehicle exist after an arrest. However, a vehicle should not be towed if reasonable alternatives exist. When considering whether to leave a vehicle at the scene, agents should take into consideration public safety as well as the reasonable safety of the vehicle and its contents.

The following are examples of situations where a vehicle should not be towed:

- The vehicle can be legally parked, left in a reasonably secure and safe location and the vehicle is not needed as evidence.
- The vehicle is parked on private property, on which the arrestee or owner is legally residing, or the property owner does not object to the vehicle being parked at that location.
- The arrestee or owner of the vehicle requests that it be released to a person who is present, willing and able to legally take control of the vehicle.
- The vehicle is legally parked and the arrestee or owner requests that it be left at the scene. In such cases the requestor should be informed that the Agency will not be responsible for theft or damages.

501.4 VEHICLES RELATED TO CRIMINAL INVESTIGATIONS

Agents should tow vehicles that are needed for the furtherance of an investigation or prosecution of a case, or that are otherwise appropriate for seizure as evidence. Agents should make reasonable efforts to return a recovered stolen vehicle to its owner rather than have it towed, so long as the vehicle is not needed for evidence.

501.5 TOWING SERVICES

Members shall not show preference among towing services that have been authorized for use by the Agency. A rotation or other system established by the Agency for tow services should be followed.

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501.6 VEHICLE INVENTORY

The contents of all vehicles towed at the request of agency members shall be inventoried and listed on the inventory report. When reasonably practicable, photographs may be taken to assist in the inventory.

- (a) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, any unlocked glove box, other accessible areas under or within the dashboard area, any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats.
- (b) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in any other type of unlocked compartments that are a part of the vehicle, including unlocked vehicle trunks and unlocked car top containers.
- (c) Any locked compartments including, but not limited to, locked glove compartments, locked vehicle trunks, locked hatchbacks and locked car-top containers should be inventoried, provided the keys are available and released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
- (d) Closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes except for the following: wallets, purses, coin purses, fanny packs, personal organizers, briefcases or other closed containers designed for carrying money, small valuables or hazardous materials.

Members should ask the occupants whether the vehicle contains any valuables or hazardous materials. Responses should be noted in the inventory report. If the occupant acknowledges that any closed container contains valuables or a hazardous material, the container shall be opened and inventoried. When practicable and appropriate, such items should be removed from the vehicle and given to the owner, or booked into property for safekeeping.

Any cash, jewelry or other small valuables located during the inventory process will be held for safekeeping, in accordance with the Evidence Room Policy. A copy of the property receipt should be given to the person in control of the vehicle, or if that person is not present, left in the vehicle.

These inventory procedures are for the purpose of protecting the vehicle owner's property, providing for the safety of agency members and protecting the Agency against fraudulent claims of lost, stolen or damaged property.

Towing a vehicle in order to perform an inventory should not be used as a pretext for an evidence search. Nothing in this policy prevents the towing of a vehicle that would occur for reasons independent of any suspicion that the vehicle may contain evidence if it is otherwise justified by law or this policy.

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501.7 SECURITY OF VEHICLES AND RETRIEVAL OF PROPERTY

If the search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, the agency member conducting the search shall take such steps as are reasonably necessary to secure or protect the vehicle or property from such hazards.

Unless it would cause an unreasonable delay in towing the vehicle or create an issue of officer safety, reasonable accommodations should be made to permit the owner, operator or occupant to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions), which are not considered evidence or contraband.

Members who become aware that a vehicle may have been towed by the Agency in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the owner or his/her agent to request a hearing to contest the tow.

Chapter 6 - Investigation Operations

Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and dispositions of criminal investigations.

600.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

600.3 INITIAL INVESTIGATION

600.3.1 AGENT RESPONSIBILITIES

An agent responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
 - 1. An initial statement from any witnesses or complainants.
 - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the agent shall:
 - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
 - 2. Determine if additional investigative resources (e.g., investigators, scene security, collection of evidence) are necessary and request assistance as required.
 - 3. If assistance is warranted, or if the incident is not routine, notify a supervisor or Agent in Charge.
 - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
 - 5. Collect any evidence.
 - 6. Take any appropriate law enforcement action.
 - 7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary and what other resources may be available, and advise the informant or complainant of this information.

600.3.2 TRADE PRACTICE INVESTIGATOR RESPONSIBILITIES

A Trade Practice Investigator assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-

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face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an agent shall be requested.

600.4 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies.

Miranda warnings are not required when conducting non-custodial interviews, as the individual is not in custody and is free to leave at any time.

600.5 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, agents should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, agents should take reasonable steps to prepare for such seizure and use the resources that are available.

Asset Forfeiture

601.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture, and liquidation of property associated with designated offenses.

601.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Executive Director to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Maryland Alcohol, Tobacco, and Cannabis Commission seizes property for forfeiture or when the Maryland Alcohol, Tobacco, and Cannabis Commission is acting as the fiscal agent pursuant to a multi-agency agreement.

Forfeiture - The process by which legal ownership of an asset is transferred to a government or other authority.

Forfeiture reviewer - The agency member assigned by the Executive Director who is responsible for reviewing all forfeiture cases and acting as the liaison between the Agency and the forfeiting authority (Md. Code CP § 12-101(f)).

Property subject to forfeiture - Items that may generally be subject to forfeiture include:

- (a) Contraband alcohol, cigarettes, and cannabis, and conveyances used to transport the products (Md. Code TG § 13-835).

Seizure - The act of law enforcement officials taking property, cash, or assets that have been used in connection with or acquired by specified illegal activities.

601.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime, and reduce the economic incentive of crime. However, the potential of revenue shall not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or any person's due process rights.

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeitures.

601.3 ASSET SEIZURE

The following property may be seized for forfeiture as provided in this policy:

601.3.1 PROPERTY SUBJECT TO SEIZURE

By authority of Tax General 13-835:

The Executive Director may seize certain properties:

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- (1) seize contraband alcoholic beverages or contraband tobacco products in the State without a warrant;
- (2) stop and search a conveyance in the State if the Executive Director, knows or has reason to suspect that the conveyance is being used to transport in the State contraband tobacco products having a retail value of \$100 or more or contraband alcoholic beverages; and
- (3) seize a conveyance being used in the State to transport contraband alcoholic beverages or contraband tobacco products.

601.3.2 NOTICES AND DELIVERY OF SEIZED PROPERTY (TAX GENERAL § 13-836)

If contraband alcoholic beverages or contraband tobacco products are seized:

The Executive Director, or police officer shall give a notice of seizure to the person from whom the property is seized at the time of the seizure; and,

The Executive Director shall:

1. give a notice of seizure to the registered owner of a seized conveyance; and
2. publish a notice of seizure of the conveyance in a newspaper of general circulation in the county where the seizure occurred.

A notice of seizure shall state the right of an owner or other interested person, including a secured party of record, to file a claim for the return of the seized property.

A police officer who seizes a conveyance used to transport contraband alcoholic beverages promptly shall notify the Comptroller and the Executive Director of the seizure.

A police officer who seizes any contraband tobacco products or conveyance used to transport contraband tobacco products shall deliver the seized cigarettes or other tobacco products and conveyance to the Executive Director, as appropriate.

601.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

Hearings, and final determination on claims for return of alcoholic beverages, cigarettes, other tobacco products, or conveyances. (Tax General §13-839)

If a person files a claim for return of seized alcoholic beverages, cigarettes, other tobacco products, or a conveyance used for their transportation under § 13-837 of this subtitle, the Comptroller, the Executive Director, or their designee shall:

- (a) promptly act on the request and hold an informal hearing
- (b) direct the return of alcoholic beverages, cigarettes, or other tobacco products unless the Comptroller, the Executive Director, or their designee has satisfactory proof that the person was not in compliance with any provisions of Title 5 or Title 12 of this article at the time of seizure; and

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- (c) direct the return of the conveyance if the Executive Director, or their designee has satisfactory proof that the owner of the conveyance was not willfully evading any provisions of Title 5 or Title 12 of this article at the time of seizure.
- (b) The Executive Director, or their designee shall grant or deny the application for return of seized alcoholic beverages, cigarettes, other tobacco products, or a conveyance in accordance with subsection (a) of this section by mailing the person a notice of final determination.

601.5 MAINTAINING SEIZED PROPERTY

The Division Administrator and the property manager are responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used by the Agency.
- (e) All money is deposited into the appropriate financial account.

601.5.1 CLAIM FOR RETURN OF CONTRABAND (TAX GENERAL § 13-837)

The owner or another person with an interest in seized property may file a claim for the return of the property with the Comptroller or the Executive Director within 30 days after:

1. the seizure of alcoholic beverages, cigarettes, other tobacco products, motor fuel or conveyances used to transport motor fuel; or
2. a notice of seizure of a conveyance used to transport alcoholic beverages, cigarettes, or other tobacco products is published.

601.6 DISPOSITION OF FORFEITED PROPERTY (TAX GENERAL § 13-841)

- (a)
 1. Contraband alcoholic beverages that are seized under this title and forfeited may be disposed of or destroyed in the manner allowed under §§ 6-105, 6-106, and 6-328 of the Alcoholic Beverages and Cannabis Article.
 2. The Executive Director, as appropriate, shall sell at public auction a conveyance that is seized under this title in connection with contraband alcoholic beverages and forfeited.
- (b)
 1. The Executive Director, as appropriate, shall sell contraband tobacco products seized under this title and forfeited to a State institution, a nonprofit charitable institution, a licensed cigarette wholesaler, or a licensed cigarette manufacturer in the manner the Executive Director determines.

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2. The Executive Director, as appropriate, shall sell at public auction a conveyance that is seized under this title in connection with contraband tobacco products and forfeited.
- (c)
- (d) In the manner required under Title 2 of this article for distributions of revenue, the Comptroller shall distribute the net proceeds from the sale of any conveyance or other property under this section after paying:
- i. the costs incurred in conjunction with the seizure and disposal of the property;
 - ii. the cost of the sale; and
 - iii. any bona fide lien against the conveyance.
- (e) If the Executive Director sells at public auction a conveyance or other property seized under this section, the Executive Director shall transfer the net proceeds of the sale to the Comptroller for distribution under Title 2 of this article.

Effect of seizure and sale:

A person who possessed contraband alcoholic beverages, contraband tobacco products that are seized and sold under this section is not relieved from any penalty under this title.
(Tax General § 13-842)

Informants

602.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

602.1.1 DEFINITIONS

Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with the Maryland Alcohol, Tobacco, and Cannabis Commission for law enforcement purposes. This also includes a person agreeing to supply information to the Maryland Alcohol, Tobacco, and Cannabis Commission for a benefit.

602.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this agency that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

602.3 USE OF INFORMANTS

602.3.1 INITIAL APPROVAL

Before using an individual as an informant, an agent must receive approval from his/her supervisor. The agent shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this agency should not guarantee absolute safety or confidentiality to an informant.

602.3.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

The use of informants under the age of 18 will only be considered on a case by case bases after consultation with the Director

602.3.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated agency informant agreement. The agent using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

602.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

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- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Executive Director, Director, Agent in Charge, supervisor or their authorized designees.
 - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as police officers, agents, employees or agents of the Maryland Alcohol, Tobacco, and Cannabis Commission, and that they shall not represent themselves as such.
- (d) The relationship between agency members and informants shall always be ethical and professional.
 - 1. Members shall not become intimately involved with an informant.
 - 2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the supervisor.
 - 3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Agents shall not meet with informants in a private place unless accompanied by at least one additional agent or with prior approval of the supervisor.
 - 1. Agents may meet informants alone in an occupied public place, such as a restaurant.
- (f) When contacting informants for the purpose of making payments, agents shall arrange for the presence of another agent.
- (g) In all instances when agency funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
- (h) Since the decision rests with the appropriate prosecutor, agents shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

602.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Agency and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- (a) The informant has provided untruthful or unreliable information in the past.

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- (b) The informant behaves in a way that may endanger the safety of an agent.
- (c) The informant reveals to suspects the identity of an agent or the existence of an investigation.
- (d) The informant appears to be using his/her affiliation with this agency to further criminal objectives.
- (e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- (f) The informant engages in any other behavior that could jeopardize the safety of agents or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

602.5 INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of agency members or the reliability of the informant.

Informant files shall be maintained in a secure area. The Agent in Charge of Special Investigations or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Executive Director, Director, Agent in Charge, supervisor or their authorized designees.

602.5.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

- (a) Name and aliases
 - (b) Date of birth
 - (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
 - (d) Photograph
 - (e) Current home address and telephone numbers
 - (f) Current employers, positions, addresses and telephone numbers
 - (g) Vehicles owned and registration information
 - (h) Places frequented
 - (i) Briefs of information provided by the informant and his/her subsequent reliability
1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.

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- (j) Name of the agent initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

602.6 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The supervisor will discuss the above factors with the Field Enforcement Division Director and recommend the type and level of payment.

602.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

- (a) Payments of \$500 and under may be paid in cash from agent buy money.
 - 1. The supervisor shall sign the voucher for cash payouts from the agent buy money.
- (b) Payments exceeding \$500 shall be authorized by the Director or Executive Director.
 - 1. A written statement of the informant's involvement in the case shall be placed in the informant's file.
 - 2. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
 - 3. Authorization signatures from the Director.
- (c) To complete the payment process for any amount, the agent delivering the payment shall complete an expense voucher.
 - 1. The cash transfer form shall include the following:
 - (a) Date.
 - (b) Payment amount.
 - (c) Maryland Alcohol, Tobacco, and Cannabis Commission case number.
 - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
 - 2. A cash voucher will be signed by the informant.

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3. The cash voucher will be kept in the informant's file.

Eyewitness Identification

603.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this agency employ eyewitness identification techniques (Md. Code PS § 3-506).

603.1.1 DEFINITIONS

Definitions related to this policy include (Md. Code PS § 3-506.1):

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

603.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

603.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

603.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Field Enforcement Division supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

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- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification (Md. Code PS § 3-506.1).
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures, instructions and identification statement.
- (j) A signed statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure (Md. Code PS § 3-506.1).

The process and related forms should be reviewed at least annually and modified when necessary.

603.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

603.6 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness. Techniques to achieve this include randomly numbering photographs, shuffling folders or using a computer program to order the persons in the lineup (Md. Code PS § 3-506.1).

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably

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standout. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

603.6.1 MULTIPLE EYEWITNESSES

When there are multiple eyewitnesses (Md. Code PS § 3-506.1):

- (a) The identification procedure shall be conducted separately for each eyewitness.
 - 1. Instructions shall be provided to each eyewitness outside the presence of other eyewitnesses.
- (b) The suspect shall be placed in a different position for each identification procedure conducted for each eyewitness.
- (c) The eyewitnesses may not be allowed to communicate with each other until all identification procedures have been completed.

603.6.2 MULTIPLE SUSPECTS

If an eyewitness has previously participated in an identification procedure in connection with the identification of another person suspected of involvement in the offense, the fillers in the identification procedure shall be different from the fillers used in any prior identification procedure (Md. Code PS § 3-506.1).

603.6.3 NUMBER OF LINEUP MEMBERS

Lineups shall consist of the following number of members, not including the suspect (Md. Code PS § 3-506.1).

- (a) For a live lineup, at least four persons.
- (b) For a photo lineup, at least five photographs.

603.7 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identification. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.

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- (b) Assess whether a witness should be included in a field identification process by considering:
 - 1. The length of time the witness observed the suspect.
 - 2. The distance between the witness and the suspect.
 - 3. Whether the witness could view the suspect's face.
 - 4. The quality of the lighting when the suspect was observed by the witness.
 - 5. Whether there were distracting noises or activity during the observation.
 - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
 - 7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
- (g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
- (h) If a witness positively identifies a subject of a show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

603.8 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification shall be documented in the case report (Md. Code PS § 3-506.1).

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness shall be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

A written record is not required if a video or audio record of the identification procedure is made that captures all of the information specified in Md. Code PS § 3-506.1.

Brady Information

604.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

604.1.1 DEFINITIONS

Definitions related to this policy include:

Brady information - Information known or possessed by the Maryland Alcohol, Tobacco, and Cannabis Commission that is both favorable and material to the current prosecution or defense of a criminal defendant.

604.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission 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. In addition to reporting all evidence of guilt, the Maryland Alcohol, Tobacco, and Cannabis Commission will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Agency will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

604.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Agents 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 an agent learns of potentially incriminating or exculpatory information any time after submission of a case, the agent or the handling 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 information is believed to be privileged or confidential (e.g., informant or attorney-client information, attorney work product), the agent 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 an agent is unsure, the agent 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 in the agency case file.

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604.4 BRADY PROCESS

The Executive Director shall select a member of the Agency to coordinate requests for *Brady* information. This person shall be directly responsible to the Field Enforcement Director or the authorized designee.

The responsibilities of the coordinator include but are not limited to:

- (a) Working with the appropriate prosecutors' offices and the Assistant Attorney General's office to establish systems and processes to determine what constitutes *Brady* information and the method for notification and disclosure.
- (b) Maintaining a current list of members who have *Brady* information in their files or backgrounds.
 - 1. Updating this list whenever potential *Brady* information concerning any agency member becomes known to the Agency or is placed into a personnel file.

604.5 DISCLOSURE OF REQUESTED INFORMATION

If *Brady* 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 agency member whose file is related to the motion shall be notified of the potential presence of *Brady* information.
- (b) The prosecuting attorney or Assistant Attorney General should be requested to file a motion in order to initiate an in-camera review by the court.
 - 1. If no motion is filed, the Custodian of Records should work with the appropriate counsel to determine whether the records should be disclosed to the prosecutor.
- (c) The Custodian of Records 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.
- (d) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
 - 1. 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.
- (e) If a court has determined that relevant *Brady* 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.

604.6 INVESTIGATING BRADY ISSUES

If the Agency receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

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604.7 SUBPOENA PROCESSING

The individual processing subpoenas (or the supervisor of the subpoenaed member) shall check the subpoenaed member's name against the current list of those who are known to have *Brady* information in their files or background, and shall alert the coordinator if a person on the list is subpoenaed.

604.8 TRAINING

Agency personnel should receive periodic training on the requirements of this policy.

Warrant Service

605.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this agency. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by agents.

605.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to balance the safety needs of the public, the safety of agency members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

605.3 SUPERVISOR RESPONSIBILITIES

The supervisor (see the Operations Planning and Deconfliction Policy) shall review the operation plan with the involved members to determine the risk level of the warrant service.

The supervisor will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

605.4 SEARCH WARRANTS

Agents should notify a supervisor before preparing a search warrant application. Once notified, the agent will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete an operations plan and submit it, along with the warrant affidavit, to the appropriate supervisor for review and classification of risk (see the Operations Planning and Deconfliction Policy).

While executing a search warrant, an agent shall be clearly recognizable and identifiable as a law enforcement officer, displaying a badge and law enforcement credentials.

605.5 ARREST WARRANTS

If an agent reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the agent should complete an operations plan and submit it to the appropriate supervisor for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the supervisor with allied agencies as needed. If the warrant is not classified as high risk, the supervisor should weigh the

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risk of entry to make an arrest against other alternatives, such as arresting the person outside where circumstances may pose a lower risk.

605.6 WARRANT PREPARATION

An agent who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime or no-knock warrant execution (Md. Code CP § 1-203).
 - 1. No-knock warrant applications shall be consistent with the requirements of state law (Md. Code CP § 1-203).
- (b) A clear explanation of the affiant's training, experience and relevant education.
- (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
- (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
- (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
- (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
- (g) A sufficient description of the items to be seized.
- (h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the *Brady* Information Policy).

605.6.1 WARRANT EXECUTION PROCEDURES

The supervisor should establish procedures regarding execution of search warrants (e.g., appropriate approvals and training, time of service limitations, measures for participants to be identifiable and recognizable as law enforcement officers).

605.7 NO-KNOCK ENTRIES

No-knock entries are only authorized if a no-knock warrant has been obtained or if exigent circumstances arise at the scene such that knocking and announcing the agent's presence would create an imminent threat of physical violence to the agent or another person.

605.8 DETENTIONS DURING WARRANT SERVICE

Agents must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of

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any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, agents must be mindful that only reasonable force may be used and weapons should be displayed no longer than the agent reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Agents should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

605.9 ACTIONS AFTER WARRANT SERVICE

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

605.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The supervisor will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the supervisor. The supervisor should discuss the service with the appropriate supervisor from the other agency. The supervisor should ensure that members of the Maryland Alcohol, Tobacco, and Cannabis Commission are utilized appropriately. Any concerns regarding the requested use of Maryland Alcohol, Tobacco, and Cannabis Commission members should be brought to the attention of the Director or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

Agents will remain subject to the policies of the Maryland Alcohol, Tobacco, and Cannabis Commission when assisting outside agencies.

605.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Executive Director. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

Operations Planning and Deconfliction

606.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of operations.

Additional guidance on planning and serving warrants is provided in the Warrant Service Policy.

606.1.1 DEFINITIONS

Definitions related to this policy include:

Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by agents on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

606.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to properly plan and carry out operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

606.3 SUPERVISOR RESPONSIBILITIES

The supervisor will develop the operations plan to assess risk and coordinate operations.

The supervisor will determine the risk assessment with involved members to assess whether a particular incident qualifies as a high-risk operation.

606.4 RISK ASSESSMENT

606.4.1 HIGH-RISK OPERATIONS

If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

- (a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:
 - (a) S.W.A.T Team (allied agency)
 - (b) Additional personnel
 - (c) Outside agency assistance
 - (d) Special equipment
 - (e) Medical personnel
 - (f) Persons trained in negotiation
 - (g) Additional surveillance
 - (h) Canines

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- (i) Evidence Room or analytical personnel to assist with cataloguing seizures
- (j) Forensic specialists
- (k) Specialized mapping for larger or complex locations
- (b) Contact the appropriate agency members or other agencies as warranted to begin preparation.
- (c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
- (d) Coordinate the actual operation.

606.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The agent serving as the operations lead shall make reasonable efforts to ensure that the subject of the investigation and operational information are deconflicted with affected agencies as early in the process as practicable.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

606.6 OPERATIONS PLAN

The supervisor should ensure that a written operations plan is developed for all operations.

The plan should address such issues as:

- (a) Operation goals, objectives and strategies.
- (b) Operation location and people:
 - 1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
 - 2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids
 - 3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)

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4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties and children
- (c) Risk assessment
- (d) Participants and their roles.
 - (a) An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.
 - (b) How all participants will be identified as law enforcement.
- (e) Whether deconfliction submissions are current and all involved individuals, groups and locations have been deconflicted to the extent reasonably practicable.
- (f) Identification of all communications channels and call-signs.
- (g) Use of force issues.
- (h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).
- (i) Plans for detaining people who are not under arrest.
- (j) Contingencies for handling children, dependent adults, animals and other people who might be at the location in accordance with the Child Abuse, Adult Abuse, Child and Dependent Adult Safety and Animal Control policies.
- (k) Communications plan.
- (l) Responsibilities for writing, collecting, reviewing and approving reports.

606.6.1 OPERATIONS PLAN RETENTION

The operations plan shall be retained in the agents case file.

606.7 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

- (a) The briefing may include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.
- (b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant. Any items to be seized should be identified at the briefing.
- (c) The supervisor shall ensure that all participants are visually identifiable as law enforcement officers.
 1. Exceptions may be made by the operations director for agents who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law

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enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.

(d) The briefing should include details of the communications plan.

(a) The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment.

606.8 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Executive Director. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

606.9 OPERATIONS DEBRIEFING

Operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible.

Facial Recognition Technology Use

607.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the use of facial recognition technology (FRT) by an agent to assist in the development of investigative leads (MD Code CP § 2-501 et seq.). This policy also provides guidance for FRT data access, use, and retention.

This policy does not apply to the use of FRT in user identification applications for personal electronic devices, access control systems, or automated video redaction software that does not generate or result in the retention of any biometric data or surveillance information (MD Code CP § 2-501; MD Code CP § 2-507).

607.1.1 DEFINITIONS

Definitions related to this policy include:

Facial recognition technology (FRT) - A software application, electronic system, or a third-party service that uses biometric algorithms to compare facial features of a probe image with the features of images contained within an image database.

Probe image - A search image submitted to FRT for comparison with images contained within an image database.

607.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to limit FRT use to developing investigative leads for legitimate law enforcement purposes while recognizing and protecting established constitutional and privacy rights (MD Code CP § 2-503).

607.3 EXECUTIVE DIRECTOR RESPONSIBILITIES

The Executive Director or the authorized designee shall approve any FRT system or service prior to its implementation and use by the Agency. Any FRT system or service approved for use must comply with the requirements of state law (MD Code CP § 2-506).

607.4 FRT COORDINATOR

The Executive Director or the authorized designee shall appoint an FRT coordinator (MD Code CP § 2-505). The responsibilities of the FRT coordinator include:

- (a) Establishing procedures for agency FRT use that conform to applicable laws, regulations, and best practices (MD Code CP § 2-505). Procedures should include:
 - 1. A process for submitting and assessing agent requests to use FRT.
 - 2. Requirements related to processing and reviewing results generated from the use of FRT.
- (b) Establishing procedures for collecting, processing, and storing FRT data.
- (c) Establishing procedures for access and security controls for agency FRT systems, services, and data.

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1. Access levels should be no higher than necessary to accomplish organizational tasks, missions, or functions.
- (d) Establishing a procedure for submitting images to the image database. The procedure should include:
 1. A requirement that agents submit images.
 2. Restrictions related to the use of images voluntarily provided to the Agency by members of the public (e.g., driver's license, state identification, passport, any other official identification that includes a photograph).
 3. Restrictions related to the types of image databases against which probe images may be compared (e.g., driver's license and identification photos, mugshots) (MD Code CP § 2-503).
- (e) Administering data quality assurance measures (e.g., probe image suitability, quality, integrity).
- (f) Conducting periodic audits of agency FRT use.
 1. The audit should include a review of FRT use, documentation of those uses, and confirmation of data purging, where appropriate.
 2. At least annually, an audit shall include a review of the agency's FRT use for compliance with applicable state and local laws, regulations, and policies (MD Code CP § 2-505).
- (g) Confirming that authorized users have completed agency-approved FRT and forensic image comparison training prior to using FRT.
- (h) Coordinating with the Division Administrator to develop, identify, and update FRT training for agents who utilize the FRT system (MD Code CP § 2-503; MD Code CP § 2-505).
- (i) Establishing and implementing a schedule for routine maintenance, upgrades, enhancements, testing, and refreshes of FRT for proper performance purposes.
- (j) Establishing procedures for reporting errors, malfunctions, or deficiencies of FRT systems, services, or data.
- (k) Coordinating with the information systems technology supervisor, agency counsel, and appropriate administrators to develop information-sharing procedures with outside agencies in accordance with state and federal law.
- (l) Establishing and implementing any other procedures necessary to comply with state law (MD Code CP § 2-501 et seq.).

607.5 AUTHORIZED USES OF FRT

FRT may be used as a tool to develop investigative leads for legitimate law enforcement purposes to assist in the identification of the following:

- (a) Unknown suspects where attempts at identification through other means have been exhausted or ineffective

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- (b) Potential victims, as appropriate (e.g., human trafficking, child sexual abuse material)
- (c) Deceased individuals (MD Code CP § 2-507)
- (d) Individuals who are incapacitated or do not know their identities (MD Code CP § 2-507)
- (e) Individuals who are lawfully detained and whose identities are in question (e.g., no identification or false identification provided)
- (f) Suspects in unsolved crimes
- (g) Missing or endangered persons (MD Code CP § 2-507)
- (h) Unknown individuals pursuant to any other legitimate law enforcement purpose

607.5.1 ADDITIONAL USES UNDER STATE LAW

FRT may also be used for (MD Code CP § 2-507):

- (a) The forensic analysis of electronic media seized by the Agency in relation to a specific investigation if the person identified in the electronic media is not the subject of criminal charges resulting from the forensic analysis.
- (b) Conducting other legitimate law enforcement activity unrelated to criminal investigations.

Only approved image databases may be used for comparison purposes. All results of FRT in criminal investigations shall be independently verified by an approved agent (MD Code CP § 2-503).

607.6 ACCESS TO FRT

Only agents authorized by the Agency may use FRT.

Prior to using FRT, an agent seeking authorization shall submit a request to the appropriate supervisor consistent with agency procedures.

The request should, at a minimum, include the following:

- (a) The nature of the investigation
- (b) The reason an agent believes that FRT use is necessary
- (c) An explanation of how FRT may assist with the development of investigative leads
- (d) A case identification number

607.7 FRT SEARCHES

An agent may submit a probe image for comparison with images available within the agency FRT image database consistent with agency procedures.

FRT searches shall only be conducted using lawfully obtained probe images.

Before proceeding with official law enforcement action based on FRT results, the results should be thoroughly reviewed by an agent trained in FRT.

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607.7.1 USES AND LIMITATIONS OF FRT SEARCH RESULTS

Information resulting from an FRT search shall be considered an investigative lead only and not a positive identification of any person or utilized solely as the basis for engaging in any law enforcement action. Image comparisons generated from FRT use do not represent definitive confirmation of an identity match or non-match. Any positive identification and connection of a person to an investigation shall be determined through additional investigative means and resources.

607.7.2 FRT SEARCH DOCUMENTATION

The investigating agent shall document all FRT searches in the appropriate agency report, including any arrest report where FRT was used as an investigative tool. Documentation shall include:

- (a) The requesting agent's name and position.
- (b) Confirmation that the search was pre-approved pursuant to agency procedures.
- (c) The purpose of the search.
- (d) The search parameters, if any.
- (e) The date and time of the search.
- (f) A list of any image databases searched.
- (g) The results of the search, including the number of investigative leads produced and, where applicable, the matching score of each.
- (h) The additional means used to identify any person (e.g., visual comparison of images by a trained investigator, other subsequent investigation).

607.8 PRIVACY CONSIDERATIONS

The Agency shall adhere to all applicable federal and state laws regarding privacy concerns related to FRT use (MD Code CP § 2-503). Absent a warrant or exigent circumstances, the agent shall not record or capture images where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure, mass surveillance of public places or quasi-public places). Agents shall take reasonable precautions to avoid inadvertently recording or capturing images where there is a reasonable expectation of privacy.

607.9 PROHIBITED USES

FRT shall not be used in a manner that targets individuals or groups solely based on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, or any other classification or status protected by law.

In addition, FRT shall not be used:

- (a) For the arrest of individuals based solely on FRT results (MD Code CP § 2-502).
- (b) For any purpose that violates the U.S. Constitution or laws of the United States, including the protections of the First, Fourth, and 14th Amendments.

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- (c) For any non-law enforcement purpose.
- (d) As the sole basis for identification to establish probable cause in a criminal investigation (MD Code CP § 2-502).
- (e) To harass or intimidate any individual or group.
- (f) In any other manner that would violate applicable law, regulation, or policy.

No agent shall request that a third-party use FRT to obtain results that would not be permitted under this policy.

607.9.1 ADDITIONAL STATE RESTRICTIONS

FRT may not be used in a criminal investigation to (MD Code CP § 2-503):

- (a) Investigate a crime other than those specifically authorized by law (e.g., a crime of violence, human trafficking, a hate crime, certain weapons crimes).
- (b) Analyze an image/recording of an individual engaged in activity protected under law without reasonable suspicion they are involved in a crime.
- (c) Analyze a sketch or manually produced image.
- (d) Disclose to a witness, prior to their participation in a live/photo lineup, that FRT identified a suspect.
- (e) Provide live or real-time identification of an image/recording.
- (f) Identify an individual based solely on:
 - 1. A member's personal interest unrelated to legitimate law enforcement duties/objectives.
 - 2. The individual's race, color, religious beliefs, sexual orientation, gender, disability, national origin, homeless status, political/social beliefs/activities, participation in lawful activities, or any other characteristic/activity prohibited by law.

607.10 RELEASE OF FRT DATA

Unless disclosure is required by law or court order, FRT data should only be released to the public in accordance with federal and state public record laws. Requests for the release of FRT data shall be processed in accordance with the Records Maintenance and Release Policy.

Required audit data shall be released to the Attorney General, public defender, State's Attorney, United States Attorney, or their designee as required by law (MD Code CP § 2-505).

607.11 RETENTION OF FRT DATA

FRT data shall be retained in accordance with the established records retention schedule.

Unmatched probe images shall be purged in accordance with the established records retention schedule.

Required audit data shall be retained for at least three years after completion of the required audit (MD Code CP § 2-505).

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607.12 DOCUMENTATION

The FRT coordinator should coordinate with the Brady coordinator to establish processes for disclosing information in the agency's possession concerning FRT to the relevant prosecuting attorney so they can comply with their FRT disclosure obligations (MD Code CP § 2-504). See the Brady Information Policy.

607.13 REPORTING REQUIREMENTS

The FRT coordinator shall prepare and publish an annual report disclosing all information required by law and provide a copy of that report to the Governor's Office of Crime Prevention, Youth, and Victim Services (MD Code CP § 2-510).

The FRT coordinator shall post a copy of this policy on the agency's website, along with any disclosures required by law (e.g., the names and databases of any nongovernment FRT systems used) (MD Code CP § 2-508).

607.14 TRAINING

Agents whose duties may require the use of FRT should receive initial training and periodic refresher training on this policy and related procedures and should demonstrate their knowledge and understanding. Training should include but is not limited to the following:

- (a) Capabilities and limitations of FRT
- (b) FRT system functions and interpretation of results
- (c) Data security and privacy concerns
- (d) Documentation and reporting requirements (e.g., FRT results, general statistics, collection of FRT data, FRT requests)
- (e) Digital media handling and protections
- (f) Common terminology (e.g., human face recognition, automated face recognition, holistic face processing, unfamiliar face matching)
- (g) Principles of comparison
- (h) Cognitive bias, confirmation bias, implicit bias, and automation bias
- (i) Applicable policy, procedure, and federal and state law requirements

An agent who uses mobile facial recognition shall receive additional training appropriate to that application of the technology.

The FRT coordinator shall maintain a record of each authorized agent's training and acknowledgement of this policy.

607.14.1 ADDITIONAL TRAINING REQUIREMENTS

Agents authorized to use FRT shall complete any state-mandated training as required (e.g., annual training administered by the DPSCS) (MD Code CP § 2-505).

Chapter 7 - Equipment

Agency-Owned Property

700.1 PURPOSE AND SCOPE

The policy addresses the care of agency-owned property and the role of the Agency when personal property, the property of another or agency-owned property is damaged or lost.

700.2 POLICY

Members of the Maryland Alcohol, Tobacco, and Cannabis Commission shall properly care for agency property assigned or entrusted to them. Agency-owned property that becomes damaged shall be promptly replaced. The Agency will not replace or repair personal property or equipment.

700.3 AGENCY PROPERTY

All property and equipment issued by the Agency shall be documented in the appropriate property sheet or equipment log. Receipt of issued items shall be acknowledged by the receiving member's signature. Upon separation from the Agency, all issued property and equipment shall be returned. Documentation of the return shall be acknowledged by the signature of a supervisor.

700.3.1 CARE OF PROPERTY

Members shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of agency property that has been assigned or entrusted to them.

Intentional or negligent abuse or misuse of agency property may lead to discipline including, but not limited to, the cost of repair or replacement.

- (a) Members shall promptly report, through their chain of command, any loss, damage to, or unserviceable condition of any agency-issued property or equipment.
 - 1. A supervisor receiving such a report shall conduct an investigation and direct a memo to the appropriate Director, which shall include the result of the investigation and whether misconduct or negligence caused the loss, damage or unserviceable condition.
 - 2. A review by command staff should determine whether additional action is appropriate.
- (b) The use of damaged or unserviceable property should be discontinued as soon as practicable, and the item replaced with a comparable item as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or otherwise reasonable by circumstances, agency property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Agency property shall not be thrown away, sold, traded, donated, destroyed or otherwise disposed of without proper authority.
- (e) A supervisor's approval is required before any attempt to repair damaged or unserviceable property is made by a member.

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700.4 PERSONAL PROPERTY

The Agency will not replace or repair costly items (e.g., jewelry, expensive watches, exotic equipment) that are not reasonably required as part of work.

700.5 DAMAGE TO PROPERTY OF ANOTHER

Members who intentionally or unintentionally damage or cause to be damaged the real or personal property of another while performing any law enforcement function shall promptly report the damage through their chain of command.

The supervisor receiving such a report shall conduct an investigation and direct a memo to the appropriate Director, which shall include the result of the investigation and whether reasonable care was taken to prevent the loss, damage or unserviceable condition.

A review of the incident by command staff to determine whether misconduct or negligence was involved should be completed.

Personal Communication Devices

701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Agency or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

701.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission allows members to utilize agency-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on- or off-duty for business-related purposes, or reasonably associated with work-related misconduct, will be subject to monitoring and inspection consistent with applicable law and this policy.

Additionally, the use of a PCD either on-duty or after duty hours for business-related purposes, or reasonably associated with work-related misconduct, may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable Maryland Public Information Act (PIA) laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory staff.

701.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received, or reviewed on any PCD issued or funded by the Agency and shall have no expectation of privacy in their location should the device be equipped with location-detection capabilities. This includes records of all keystrokes or web-browsing history made on the PCD. The fact that access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through agency PCDs or networks (see the Information Technology Use Policy for additional guidance).

Members have no expectation of privacy regarding any communications while using a personally owned PCD for agency-related business or when the use reasonably implicates work-related misconduct.

701.4 DEPARTMENT ISSUED PCD

Depending on a member's assignment and the needs of the position, the Agency may, at its discretion, issue or fund a PCD for the member's use to facilitate on-duty performance. Agency-

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issued or funded PCDs may not be used for personal business either on or off-duty unless authorized by the Executive Director or the authorized designee. Such devices and the associated telephone number, if any, shall remain the sole property of the Agency and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

701.5 PERSONALLY OWNED PCD

Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) The Agency accepts no responsibility for loss of or damage to a personally owned PCD.
- (b) The PCD and any associated services shall be purchased, used, and maintained solely at the member's expense.
- (c) The device should not be used for work-related purposes other than telephonic communication.
- (d) The device shall not be utilized to record or disclose any agency business-related information, including photographs, video, or the recording or transmittal of any information or material obtained or made accessible as a result of employment or appointment with the Agency, without the express authorization of the Executive Director or the authorized designee.
- (e) Members should be cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery.
- (f) If the Agency becomes aware that a PCD was used to facilitate a violation of civil or criminal law or violation of agency policy, it may be subject to seizure and become evidence in a legal or administrative proceeding.

701.6 USE OF PCD

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct agency business:

- (a) A PCD may not be used to conduct personal business while on-duty except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times unless an emergency exists.
- (b) Members may use a PCD to communicate with other personnel.
- (c) Members are prohibited from taking pictures, audio or video recordings, or making copies of any such picture or recording media unless it is directly related to official agency business. Disclosure of any such information to any third party through any means requires the express authorization of the Executive Director or the authorized designee.

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- (d) Members will not access social networking sites for any purpose that is not official agency business. This restriction does not apply to a personally owned PCD used during authorized break times.
- (e) Using PCDs to harass, threaten, coerce, or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

701.7 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
 - 1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
 - 2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Executive Director or the authorized designee.

701.8 OFFICIAL USE

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other agency communications network.

701.9 USE WHILE DRIVING

The use of a PCD while driving is only permitted for agents who are acting within the scope of their official duties. However, such use can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Therefore, agents should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD (Md. Code TR § 21-1124.2).

Except in an emergency, members who are operating vehicles that are not equipped with lights and siren shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Md. Code TR § 21-1124.2). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

The use of a PCD while driving is not authorized for civilian members. (Md. Code TR § 21-1124.2)

Vehicle Maintenance

702.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that agency vehicles are appropriately maintained.

702.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will service agency vehicles to ensure they remain operational and maintain their appearance, as resources allow.

702.3 GENERAL DUTIES

Members are responsible for assisting in maintaining agency vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

Agents are responsible for performing scheduled preventive maintenance on their assigned vehicles, including oil and filter changes and tire rotations, in accordance with the manufacturer's recommendations.

Pool vehicles will be maintained by the Division Administrator.

Authorized drivers of pool vehicles must record the starting and ending mileage and each county traveled on the form provided in the vehicle.

See attachment: [drivers_manual.pdf](#)

702.4 DEFECTIVE VEHICLES

When a vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service. Proper documentation shall be promptly completed by the member who becomes aware of the defective condition and forwarded to the Division Administrator for action.

Documents describing the correction of the safety issue shall be filed with the vehicle history without delay.

702.4.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

702.4.2 SEVERE USE

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, or prolonged high-speed operation.

702.4.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured prior to the vehicle being released for maintenance, service or repair.

Vehicle Maintenance

702.5 VEHICLE EQUIPMENT

Certain items shall be maintained in all agency vehicles.

702.5.1 UNMARKED VEHICLES

Members driving unmarked agency vehicles shall ensure that the following equipment, at a minimum, is in the vehicle:

- 1 first-aid kit and CPR mask
- 1 high-visibility vest
- Spare tire, jack and lug wrench
- Fire extinguisher

702.6 VEHICLE REFUELING

Vehicles shall only be refueled at authorized state locations. It is recommended that vehicles retired at the end of the workday and unassigned pool vehicles maintain at least one half tank of fuel.

702.7 WASHING OF VEHICLES

Vehicles shall be kept clean at all times and, weather conditions permitting, shall be washed as necessary to maintain the professional appearance of the Agency.

Members using a pool vehicle shall remove any trash or debris when returning the vehicle.

Before a vehicle is turned in for replacement or reassignment, the member must wash the exterior, clean the interior, and remove all personal belongings.

Vehicle Use

703.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure agency vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of agency vehicles and shall not be construed to create or imply any contractual obligation by the State of Maryland Alcohol, Tobacco, and Cannabis Commission to provide assigned take-home vehicles.

Additional guidelines for member responsibilities when transporting persons in custody may be found in the Transporting Persons in Custody Policy.

703.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission provides vehicles for agency-related business and may assign vehicles based on a determination of operational efficiency, economic impact to the Agency, requirements for tactical deployments and other considerations.

703.3 USE OF VEHICLES

703.3.1 USE OF VEHICLES

State-owned vehicles shall be operated only by drivers who have signed the Department of Budget and Management (DBM) Acknowledgment Statement.

The Division Administrator shall ensure their vehicle inventory is updated when agents are assigned new vehicles or when agents switch vehicles permanently

703.3.2 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents, or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this agency should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before (if safe and practicable) and after that person is transported.

All agency vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

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703.3.3 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. Unattended means that the employee is not in the immediate vicinity of the vehicle or does not have the vehicle in his/her clear observation. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, equipment charging). Agents who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

703.3.4 KEYS

Members who are assigned a specific vehicle should be issued keys for that vehicle. Members shall not duplicate keys without the permission of their supervisor. The loss of a key shall be promptly reported in writing through the member's chain of command.

703.3.5 AUTHORIZED PASSENGERS

Members operating agency vehicles shall not permit persons other than State personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

703.3.6 ALCOHOL

Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

703.3.7 PARKING

Except when responding to an emergency or when urgent agency-related business requires otherwise, members driving agency vehicles should obey all parking regulations at all times.

703.3.8 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without permission from the Division Administrator.

703.3.9 CIVILIAN MEMBER USE

Civilian members using emergency vehicles shall ensure that all weapons have been removed before going into service. Civilian members shall not operate the emergency lights or siren of any vehicle.

703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES

Agency vehicles may be assigned to individual members at the discretion of the Division Director and the Fleet Manager. Vehicles may be assigned for on-duty and/or take-home/off duty use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment and use of vehicles may be suspended when the member is unable to perform his/her regular assignment.

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703.4.1 VEHICLE USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other agency members at the discretion of the Executive Director or the authorized designee.

703.4.2 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence; the nature of the member's duties, job description and essential functions; and the member's employment or appointment status. Residence in the State of Maryland is a prime consideration for assignment of a take-home vehicle. Members who reside outside the State of Maryland are required to secure the vehicle at a designated location or the Agency at the discretion of the Executive Director.

Civilian members are cautioned that under federal and local tax rules, personal use of a State vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member's tax adviser.

Civilian use of take-home vehicles include the following:

- (a) Vehicles may be used to transport the member to and from the member's residence for work-related purposes.
- (b) Vehicle may be used when the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or traveling to or from a work-related activity or function, as authorized by the Director or Supervisor.
- (c) When the member has received permission from the Executive Director or Directors.
- (d) Vehicles are to be parked at the member's residence unless prior arrangements have been made with the Division Director or the authorized designee.
- (e) Vehicles are to be secured at the member's residence or the appropriate agency facility, at the discretion of the Agency when a member will be away (e.g., on vacation) for periods exceeding one week.
 - 1. If the vehicle remains at the residence of the member, the Agency shall have access to the vehicle.
 - 2. If the member is unable to provide access to the vehicle, it shall be parked at the Agency.
- (f) The member is responsible for the care and maintenance of the vehicle.

703.4.3 SWORN MEMBER OFF-DUTY USE OF STATE VEHICLE (S.L.E.O.L.A. MOU, EFFECTIVE 7-1-2025)

Eligibility

- (a) Agents are eligible for off-duty use of their assigned patrol vehicle upon successful completion of Field Training requirements.

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- (b) Agents placed on Limited Duty Status may retain off-duty use of their Agency vehicle.
- (c) In the event that an agent's assigned vehicle is unavailable (e.g., maintenance, repairs) the agency is under no obligation to provide a replacement vehicle for the purposes of off-duty use.
- (d) An agent's off-duty use privilege is subject to suspension or revocation if the Field Enforcement Division Director deems it in the best interest of the Agency.

Use and Limitations

- (a) Agents may not operate their vehicle outside of the State of Maryland.
- (b) Agents shall be armed, appropriately attired and carry their agency-issued identification. Agents should also ensure that agency communication capabilities are maintained to the extent feasible.
- (c) Members of the agent's immediate family, to include spouse, child, brother, sister, parents or parents-in-law, grandparents, or guardians of the agent, are permitted to accompany him/her when operating his/her assigned vehicle off-duty. Agents are responsible for the behavior and appearance of the passengers.
- (d) Agents are prohibited from using the vehicle while engaged in political activities such as setting up signs, and attending rallies, caucuses, promotional events, or fundraisers, etc.
- (e) Agents will not use Agency vehicles to carry loads that are excessive and protrude from the vehicle.
- (f) No towing personally owned trailers.
- (g) No alcoholic beverages will be carried in a vehicle except when seized as evidence/ contraband or for training purposes.
- (h) Members may not violate state law regarding vehicle operation while intoxicated.
- (i) Agency vehicles will not be operated after consuming any drug that may impair the agent's ability to operate the vehicle safely.
- (j) Agency vehicles may be used to commute to and from approved secondary employment locations that comply with all other portions of this section.
- (k) Vehicles may not be operated in conjunction with secondary employment.

OFF-DUTY ENFORCEMENT

- (a) When driving a take-home vehicle while off-duty, an agent shall not initiate enforcement actions out side of the Agency's statutory limitations, except in those circumstances where a potential threat to life or serious property damage exists.
- (b) Agents may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

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703.4.4 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary.
- (d) The Agency shall be notified of problems with the vehicle and approve any major repairs before they are performed.
- (e) All weapons shall be removed from any vehicle left for maintenance.
- (f) Supervisors shall conduct inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

703.5 DAMAGE, ABUSE AND MISUSE

When any agency vehicle is involved in a traffic accident or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic accident report shall be filed with the agency having jurisdiction (see the Traffic Accidents Policy).

Damage to any agency vehicle that was not caused by a traffic accident shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the **[**watchcomm**]**. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

703.6 TOLL ROAD USAGE

Agency vehicles are not routinely exempt from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating agency vehicles on a toll road shall adhere to the following:

- (a) Members operating agency vehicles for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way transponder. Members may submit a request for reimbursement from the State for any toll fees incurred in the course of official business.

703.7 ATTIRE AND APPEARANCE

When operating any agency vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Agency.

Cash Handling, Security and Management

704.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure agency members handle cash appropriately in the performance of their duties.

This policy does not address cash-handling issues specific to the Property and Informants policies.

704.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to properly handle and document cash transactions and to maintain accurate records of cash transactions in order to protect the integrity of agency operations and ensure the public trust.

704.3 AGENCY INDIVIDUAL CASH ADVANCE

The Division Director is the fund manager and is responsible for maintaining and managing Individual Cash Advance (ICA).. In the absence of the fund manager, the Executive Director may delegate this responsibility to an authorized designee.

Each Individual Cash Advance requires the creation and maintenance of an accurate and current transaction ledger and the filing of invoices, receipts, cash transfer forms and expense reports by the fund manager.

704.3.1 AUTHORIZED USE OF INDIVIDUAL CASH ADVANCES (ICA) FOR INVESTIGATIVE AND OPERATIONAL NEEDS

Agents will generally be issued an "Individual Cash Advance" (ICA) to be used as a resource for the following purposes:

- (a) Funds to make undercover purchases of evidence to advance an investigation.
- (b) Funds to purchase required items needed to perform essential duties or advance an investigation in exigent circumstances when other funding sources are not practical on short notice.
- (c) Funds to pay a Confidential Informant.

An ICA made for an Agent/employee is synonymous with being issued a piece of equipment required to perform your duties safely, effectively, and efficiently. An ICA serves as a personal petty cash account which is a resource to carry out your duties. As the holder of an ICA, you are responsible for maintaining those funds.

An issued ICA can be called back by your supervisor at any time for any reason. Cash on hand from your ICA must be maintained separate from your personal financial resources and co-mingling of those funds is prohibited. All Agency ICAs may be inspected monthly.

704.4 ICA FUND OVERSIGHT AND REPORTING REQUIREMENTS

A critical factor in maintaining a full balance in your ICA is prompt submissions for reimbursement to the agency office of Essential Shared Services. The reimbursement of expenses to ICA funds

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will be delivered through your bi-weekly paycheck, separate from your earnings and not subject to any withholding.

Agents/employees issued an ICA are required to do the following:

- (a) Maintain a "Cash Journal" that captures the following information:
 - The date of all transactions
 - A description of each transaction to include numeric identifiers such as ATCC Case numbers, Confidential Informant numbers.
 - Deposits into the fund
 - Expenditures from the fund
 - A running balance of funds on hand
- (a) Obtain approval from your supervisor to expend funds from your ICA advance for the purchase of a perceived required item needed to perform essential duties or advance an investigation.

704.4.1 REIMBURSEMENT PROCEDURES

Agents must complete the **ATCC Expense Account Reimbursement Form**, available as an Excel file, and submit it to the **Division Administrator**.

- (a) The form must include the **ATCC Case Number** that corresponds to the reimbursed expenditure.
- (b) All **highlighted sections** on the form must be properly filled out before submission.

A **critical factor** in maintaining a full ICA balance is the **timely submission** of reimbursement requests to the **Agency Office of Essential Shared Services**.

Reimbursement funds will be distributed through the agent's **bi-weekly paycheck**.

- (a) These reimbursements are **separate from regular earnings** and are **not subject to tax withholding**.

[See attachment: ATCC Expense Account.pdf](#)

704.5 RECEIPT AND ACKNOWLEDGMENT OF ICA FUNDS AND POLICY

Prior to the issuance of an Individual Cash Advance (ICA), each agent or employee must sign an acknowledgment form confirming the amount of funds received and their understanding of the responsibilities outlined in this policy.

By signing the acknowledgment, the agent affirms that:

- They have received the designated ICA funds.
- They understand the authorized uses, documentation requirements, and reimbursement procedures for ICA funds.

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- They are responsible for maintaining the integrity of the funds, including accurate recordkeeping, prompt reimbursement submissions, and maintaining a separation between ICA funds and personal finances.
- They understand that misuse of ICA funds, failure to maintain required records, or noncompliance with this policy may result in disciplinary action, up to and including termination.

The signed acknowledgment form will be retained in the administrative file.

See attachment: [Individual Cash Advance Update_3-12-2024.pdf](#)

Personal Protective Equipment

705.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Agency as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

705.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission endeavors to protect members by supplying certain PPE to members as provided in this policy.

705.3 AGENT RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

705.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in COMAR 09.12.31.9999 and 29 CFR 1910.95.

705.5 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

The Firearms Instructor shall ensure eye protection meets or exceeds the requirements provided in COMAR 09.12.31.9999 and 29 CFR 1910.133.

705.6 GLOVES

The Agency will supply disposable protective gloves when there is a risk of exposure to blood borne pathogens, bodily fluids, or other potentially hazardous substances during arrests, searches, or any physical contact with individuals or contaminated materials.

Gloves will be immediately discarded after each use.

Agents should carry an adequate supply of gloves while on duty and are responsible for ensuring proper disposal when available.

Chapter 8 - Support Services

Crime Analysis

800.1 PURPOSE AND SCOPE

This policy provides guidelines for utilizing crime analysis to support the overall law enforcement efforts of the Maryland Alcohol, Tobacco, and Cannabis Commission. It addresses the collection and dissemination of crime analysis data that is useful to long-range planning and that can assist in identifying enforcement priorities, strategies and tactics.

800.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to utilize crime analysis as a tool in crime control and prevention efforts. This entails gathering, analyzing and correlating data to effectively deploy the Agency's resources.

800.3 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to, the following:

- Crime reports
- Field Interviews
- Parole and probation records
- Activity records from ATCC Tips
- Maryland Coordination and Analysis Center (MCAC)

800.4 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for crime analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

800.5 CRIME ANALYSIS DISSEMINATION

Information developed through crime analysis should be disseminated to the appropriate divisions or members on a timely basis. Information that is relevant to the operational or tactical plans of specific line members should be sent directly to them.

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Information relevant to the development of agency strategic plans should be provided to the appropriate command staff members.

When information pertains to tactical and strategic plans, it should be provided to all affected members

Property

801.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper processing, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and identifies those persons authorized to remove and/or destroy property.

801.1.1 DEFINITIONS

Definitions related to this policy include:

Property - All articles placed in secure storage within the Evidence Room, including the following:

- Evidence - Items taken or recovered during an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.
- Found property - Items found by members of the Agency or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the Agency for safekeeping, such as a firearm, the personal property of an arrestee that has not been taken as evidence, and items taken for safekeeping under authority of law.

801.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to process and store all property in a manner that will protect it from loss, damage or contamination, while maintaining documentation that tracks the chain of custody, the location of property and its disposition.

801.3 EVIDENCE ROOM SECURITY

The Evidence Room shall maintain secure storage and control of all property in the custody of this agency. A Property Manager shall be appointed and will be directly responsible to the Licensing, Research, and Trade Practices Division Director or the authorized designee. The Property Manager is responsible for the security of the Evidence Room.

801.3.1 REFUSAL OF PROPERTY

The Property Manager has the obligation to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the Property Manager refuse an item of property, the Property Manager shall maintain secure custody of the item in a temporary property room or other safe location and inform the submitting member's supervisor of the reason for refusal and the action required for acceptance into the Evidence Room.

801.3.2 KEY CONTROL

Evidence Room keys and key cards should be maintained by the Property Manager and members assigned to the Evidence Room. Evidence Room keys and key cards shall not be loaned to anyone and shall be maintained in a secure manner. If an Evidence Room key or key card is lost, all access points shall be re-keyed and new key cards issued as necessary.

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801.3.3 ACCESS

Only authorized members assigned to the Evidence Room shall have access to property storage areas. Any individual who needs to enter the property storage area (e.g., maintenance or repair contractors) must be approved by the Licensing, Research, and Trade Practices Division Director or designee, and accompanied by the Property Manager or the authorized designee. Each individual must sign the Evidence Room access log and indicate:

- (a) The date and time of entry and exit.
- (b) The purpose for access, including the specific case or property number.

Each access log entry shall be initialed by the accompanying agency member.

801.4 PROPERTY HANDLING

The member who first comes into possession of any property is generally responsible for the care, custody and control of such property until it is transferred to the Property Manager and/or processed and placed in a temporary property locker or storage area. Care shall be taken to maintain the chain of custody for all items of evidence.

Whenever property is taken from an individual, a property receipt, Search Warrant Return, or Receipt of Confiscation form will be completed. The receipt shall describe the property and may contain a notice on how to retrieve the property from the Agency. A copy of the property receipt form shall be given to the individual from whom the property was taken.

801.4.1 PROCESSING AND PACKAGING

All property must be processed prior to the responsible member going off-duty, unless otherwise approved by a supervisor. Members shall process and package property as follows:

- (a) A property form shall be completed, separately describing each item of property. List all known information including:
 - 1. Case Number
 - 2. Owner's name
 - 3. Agent/Investigator's name
 - 4. Other identifying information or markings
- (b) All Items should be field counted by the seizing agent and transported to the temporary storage room. The Property Manager will then verify the count and notify the agent if a discrepancy is discovered. If a discrepancy is discovered, the agent will correct the items which contain errors and make note of the discrepancy in the case report. A Discrepancy Report will be completed by the Property Manager and forwarded to the case agent for inclusion in the case report.
- (c) Property shall be packaged in a container suitable for its size.
- (d) Each container shall be marked with the Agent's initials, case number, and the date seized.

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- (e) A property tag/label shall be completed and attached to the property or container in which the property is stored by the Property Manager.
- (f) The case number shall be indicated on the property tag/label and the container.
- (g) The property form shall be submitted with the case report. (RMS)

801.4.2 EXCEPTIONAL PROCESSING

The following items require special consideration and shall be processed as follows, unless special conditions dictate a reasonable deviation:

Alcohol

- (a) **Open Bottles** - If open bottles or containers of alcohol are seized, every attempt should be made to seal the open bottles with either the original cap or paraffin tape as to prevent leakage.
- (b) **Other containers** - Alcohol seized in containers not originating from the manufacturer should be evaluated for durability. For example, illicit alcohol stored in milk jug-style containers is prone to degradation and may leak over time. Such evidence should be photographed, and the contents transferred to a secure bulk storage barrel.

Raw Tobacco – Upon seizure, raw tobacco shall be placed in heavy plastic or other suitable material to contain the product during transport and temporary storage. To prevent degradation and mold growth, storage conditions must limit moisture retention and allow for proper airflow as soon as practical. The weight of the raw tobacco shall be recorded and entered in the property log. The Property Manager will verify the weight and affix a label or tag to the raw tobacco.

Cash - Cash shall be counted in the presence of another member. The cash shall be placed in a property envelope and initialed by both members. A supervisor shall be contacted. The supervisor shall witness the count, initial and date the envelope, and ensure that the cash is photographed and/or photocopied in its' entirety. The supervisor shall also specify any additional security procedures that may be necessary, including arrangements to have the cash deposited into the Agency account.

Firearms and other weapons - Firearms shall be unloaded and packaged separately from ammunition. Knife boxes should be used to package knives.

Government property - License plates that have not been reported stolen or are of no evidentiary value should be placed in the designated container for return to the Motor Vehicle Administration. No formal property processing is required.

State property that is of no evidentiary value should be released directly to the appropriate State department. No formal property processing is required.

If no responsible State personnel can be located, the property should be held for safekeeping.

Sharps - Syringe tubes should be used to package syringes and needles.

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801.4.3 FIREARMS REPORTING REQUIREMENTS

In general, the Maryland Alcohol, Tobacco, and Cannabis Commission shall notify the local jurisdiction whenever a firearm is encountered during an investigation. However, if a circumstance arises that requires a firearm to be seized, the following shall apply.

Whenever a firearm is recovered in connection with illegal firearm possession, transportation, or transfer, or that was used in the commission of a crime of violence as defined in Md. Code PS § 5-101, or that was surrendered pursuant to a final protective order issued under Md. Code FL § 4-506, the responsible member should record on the appropriate form, when applicable (Md. Code PS § 5-803):

- (a) The number and type of firearms recovered.
- (b) The jurisdiction where the firearm was recovered or surrendered.
- (c) The source of the firearm recovered if it can be determined.
- (d) Information concerning any person found in possession of the firearm or who surrendered the firearm.
- (e) Any additional information required by the Maryland State Police Gun Center.

801.5 RECORDING OF PROPERTY

The Property Manager receiving custody of property shall ensure a property form for each item or group of items is created. The property form will be the permanent record of the property in the Evidence Room. The Property Manager will record on the property form his/her signature, the date and time the property was received and where the property will be stored.

The property form shall document the following:

- (a) Case number
- (b) Item description
- (c) Item storage location
- (d) Receipt, release and disposal dates

Any change in the location of property held by the Maryland Alcohol, Tobacco, and Cannabis Commission shall be noted in RMS.

801.6 PROPERTY CONTROL

The Property Manager relinquishing custody of property to another person shall record his/her signature, the date and time the property was released and the name of the person accepting custody of the property on the property form.

The Property Manager shall obtain the signature of the person to whom the property is released, and the reason for release. Any member receiving property shall be responsible for such property until it is properly returned to the Evidence Room or properly released to another authorized person or entity.

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The return of the property to the Evidence Room should be recorded on the property form, indicating the date, time and the name of the person who returned the property, and to whom the property is returned.

801.6.1 EVIDENCE

Every time evidence is released or received, an appropriate entry on the property form shall be completed to maintain the chain of custody. No evidence is to be released without first receiving written authorization from a supervisor, agent, or investigator.

Temporary release of evidence to members for investigative purposes, or for court proceedings, shall be noted on the property form, stating the date, time and to whom released. Requests for items of evidence needed for court proceedings shall be submitted to the Property Manager at least one day prior to the court date.

Requests for laboratory analysis for items shall be completed on the appropriate lab form and submitted to the Property Manager. This request may be submitted any time after the property has been processed.

801.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The Property Manager releasing items of evidence for laboratory analysis must complete the required information on the property form. The transporting member will acknowledge receipt of the evidence by indicating the date and time on the property form. The lab form will be transported with the evidence to the examining laboratory. Upon delivering the item involved, the member will record the delivery time on the lab form and the property form and obtain the signature of the person accepting responsibility of the evidence. The original copy of the lab form will remain with the evidence and a copy of the form will be returned for filing with the case.

801.7 RELEASE OF PROPERTY

The Field Enforcement Division shall authorize the release of all property coming into the care and custody of the Agency. All reasonable attempts shall be made to identify the rightful owner of found property or items of evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized property release form, listing the name and address of the person to whom the property is to be released. The property release form shall be signed by the authorizing supervisor or investigator and must conform to the items listed on the property form or must specify the specific items to be released. Release of all property shall be documented on the property form.

Found property and property held for safekeeping shall be held for the period of time required by law. During such period, Property Manager shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. The final disposition of all such property shall be fully documented in related reports.

The Property Manager shall release the property when the owner presents proper identification and an authorized property release form has been received. A signature of the person receiving the

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property shall be recorded on the property form. If some items of property have not been released, the property form will remain with the Evidence Room. After release of all property entered on the property form, the form shall be forwarded to the Agent/investigator for filing with the case. Upon release, the proper entry shall be documented in RMS.

Firearms or ammunition should only be released upon the presentation of valid identification and determination that the individual may legally possess the item.

801.7.1 DISCREPANCIES

The Director shall be notified whenever a person alleges there is a shortage or discrepancy regarding the person's property. The Director will assign a supervisor to interview the person claiming the shortage. The supervisor shall ensure that a search for the alleged missing items is complete and shall attempt to prove or disprove the claim.

801.7.2 DISPUTED CLAIMS TO PROPERTY

Occasionally, more than one party may claim an interest in property being held by the Agency and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Agency should be contacted.

801.8 DESTRUCTION OR DISPOSAL OF PROPERTY

The Field Enforcement Division shall authorize the destruction or disposal of all property held by the Agency. All property not held for evidence in a pending criminal investigation or proceeding may be destroyed or disposed of in compliance with existing laws upon receipt of proper authorization from a supervisor. The disposition of all property shall be entered on the property form.

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law, unless a different disposition is ordered by a court:

- Weapons or devices that are forfeited or declared by law to be illegal to possess (Md. Code CP § 13-206).
- CDS declared by law to be illegal to possess without a legal prescription (Md. Code CP § 12-403).
- Money seized in connection with arrest for unlawful bookmaking, betting, or gaming (Md. Code CP § 13-106).
- A forfeited motor vehicle, other vehicle, vessel, or aircraft that was used to conceal, convey, or transport explosives in violation of law (Md. Code CP § 13-301(d)).
- Firearms or ammunition surrendered pursuant to an extreme risk protective order, upon a respondent's request for destruction, or if such property is not reclaimed within six months of the notice provided to the respondent (Md. Code PS § 5-608).

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801.8.1 CANNABIS

At the first sign of mold growth, stored marijuana shall be photographed showing the mold growth and the Property Manager shall make efforts to lawfully destroy the contaminated marijuana in compliance with this policy and as soon as practicable. The Property Manager should consult with the member assigned to the case investigation for his/her authorization to destroy the remaining marijuana after taking representative samples and should request assistance from the appropriate prosecutor in obtaining a court order for immediate destruction.

801.9 INSPECTIONS OF THE EVIDENCE ROOM

The Licensing, Research, and Trade Practices Division Director shall ensure that periodic, unannounced inspections of the Evidence Room operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Licensing, Research, and Trade Practices Division Director also shall ensure that an audit is conducted annually, or as directed by the Executive Director. Inspections and audits shall be conducted by a member of this agency who is not routinely or directly connected with the Evidence Room operations.

Whenever there is a change of assignment for any member with authorized access to the Evidence Room, an inventory of all property shall be conducted by a person who is not associated with the Evidence Room or function. This is to ensure that all property is accounted for and records are correct.

Records

802.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of agency records. The policy addresses records file access, internal requests for case reports and guidance on the maintenance and release of agency records

802.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to maintain agency records securely, professionally and efficiently and providing access to public records in a manner that is consistent with the Maryland Public Information Act (PIA) (Md. Code GP § 4-101 et seq.).

802.3 RESPONSIBILITIES

In accordance with State Government Article §10#608 through 10#611 of the Annotated Code of Maryland and COMAR 14.18.02.07:

a. Each division within the Maryland Alcohol, Tobacco, and Cannabis Commission is responsible for maintaining a current records inventory and an approved records retention and disposition schedule. This includes:

- Field Enforcement Division
- Licensing, Research, and Trade Practices Division
- Legal and Legislative Division
- Finance, Administration, and Accountability Division

b. Each records retention schedule must:

- Identify retention periods for all record series
- Designate permanent records
- Outline procedures for transfer to the Maryland State Archives
- Specify any access restrictions

c. Records must be appraised based on their administrative, legal, fiscal, or historical value.

d. No records may be destroyed or transferred without prior approval of the retention schedule by the Maryland State Archives.

e. All divisions shall manage their records in accordance with the State of Maryland's Records Inventory and Retention Schedule to ensure proper documentation, secure storage, and compliance with applicable laws and regulations.

802.3.1 REGULATORY REPORTING AND COMPLIANCE RESPONSIBILITIES

The responsibilities related to regulatory reporting and compliance include, but are not limited to:

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- (a) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of crime statistics.
- (b) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.
- (c) Identifying missing case reports and notifying the responsible member's supervisor.
- (d) Establishing a process for collecting and submitting data to appropriate federal data collection authorities (e.g., FBI National Use-of-Force Data Collection), as applicable, for the following types of occurrences:
 - (a) Agent suicides
 - (b) Agent misconduct
 - (c) Uses of force
 - (d) Agent deaths or assaults
 - (e) Crime incidents
 - (f) Deaths in custody
- (e) Complying with the annual reporting requirements established by the Maryland Police Training and Standards Commission (MPTSC) regarding (Md. Code PS § 3-518; Md. Code PS § 3-207):
 1. The number of serious officer-involved incidents.
 2. The number of agents disciplined.
 3. The type of discipline administered to each agent.
- (f) Complying with state requirements regarding the annual reporting of agent-involved deaths and deaths in the line-of-duty (Md. Code PS § 3-507).
- (g) Complying with the annual reporting requirements related to use of force incidents involving an agent that result in a monetary settlement or judgment against the Agency (Md. Code PS § 3-528).
- (h) Complying with the annual reporting requirements related to search warrants (Md. Code PS § 3-525).
- (i) Complying with the annual reporting requirements to the MPTSC related to the number of use of force complaints made against the Maryland Alcohol, Tobacco, and Cannabis Commission's agents (Md. Code PS § 3-514).

802.4 CUSTODIAN OF RECORDS

The Executive Director shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to (Md. Code GP § 4-201 et seq.):

- (a) Managing the records management system for the Agency, including the retention, archiving, release, and destruction of agency public records.
- (b) Maintaining and updating the agency records retention schedule including (Md. Code SG § 10-610; Md. Code SG § 10-615; COMAR 14.18.02.04):

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1. Identifying the minimum length of time the Agency must keep records.
 2. Identifying the agency division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of agency public records as reasonably necessary for the protection of such records.
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing procedures for correcting an error in records (Md. Code GP § 4-502).
- (f) Establishing rules regarding the processing of subpoenas for the production of records.
- (g) Ensuring a current schedule of fees for public records as allowed by law is available.
- (h) Preparing and making available to the public a description of the basic rights of a person who requests public information, the responsibilities of the Agency, and the procedures, including the cost of inspecting or obtaining copies.
- (i) Ensuring that the Agency only maintains information about a person that is (Md. Code GP § 4-102):
1. Authorized or required by law.
 2. Relevant to the accomplishment of a legitimate purpose.
- (j) Adopting rules defining sociological information held by the Maryland Alcohol, Tobacco, and Cannabis Commission and restricted release of the information (Md. Code GP § 4-330).
- (k) Ensuring updated contact information for is maintained on the agency's website and submitted annually to the Maryland Office of the Attorney General as required by Md. Code GP § 4-503.
- (l) Adopting rules for the appropriate proactive disclosure of public records that are available for inspection under the Maryland PIA (Md. Code GP § 4-104).
- (m) Posting in a prominent public location an explanation of the procedures for filing a request to obtain records relating to agent misconduct as defined by Md. Code PS § 3-101 (Md. Code PS § 3-515).

802.5 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any agency member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

802.5.1 REQUESTS FOR RECORDS

The processing of requests for any public record is subject to the following (Md. Code GP § 4-203):

- (a) Absent a valid reason for denial, the Custodian of Records shall grant access to the requested records promptly or within the reasonable period that is needed to retrieve the public record, but not more than 30 days after receipt of the request.

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- (b) If the Custodian of Records reasonably believes that it will take more than 10 working days to produce the requested records, written or electronic notice shall be provided to the applicant within 10 working days indicating the amount of time needed to produce the records, the reason for the delay, and the estimated fees that may be charged for the production.
- (c) The Agency is not required to create records that do not exist.
- (d) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
 - 1. A copy of the redacted release should be maintained in the case file, or in an electronic file, as proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the agency-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (e) A Custodian of Records may not ignore a request to inspect public records on the grounds that the request was made for the purpose of harassment.
- (f) If a request for records is denied, the Custodian of Records must notify the applicant within 10 working days in writing of the following (Md. Code GP § 4-203):
 - 1. The reasons for the denial.
 - 2. The legal authority for the denial.
 - 3. A brief description of the undisclosed record that will allow the applicant to evaluate the applicability of the legal authority for the denial. The description provided shall not disclose any protected information from the record.
 - 4. The remedies available to the applicant for review of the denial (Md. Code GP § 4-362).
- (g) The time limits set forth above in this section may be extended for an additional 30 days with the agreement of the applicant (Md. Code GP § 4-203).
- (h) The time limits set forth above in this section may be extended in the event of a dispute under Md. Code GP § 4-1A-01 et seq. or Md. Code GP § 4-1B-01 et seq.

Whenever the Custodian of Records reasonably believes that inspection would cause substantial injury to the public interest, the Custodian of Records may deny inspection temporarily, but within 10 working days after the denial, the Custodian of Records shall petition a court to issue an order permitting the continued denial of inspection (Md. Code GP § 4-358). If the Custodian of Records reasonably believes that inspection of part of a public record would be contrary to the public interest, the Custodian may deny inspection of that part of the record, but shall provide an explanation of why denial is necessary and why redaction would not address the reason for the denial (Md. Code GP § 4-203; Md. Code GP § 4-343).

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802.5.2 DISPUTES

Anytime a written complaint regarding a dispute is received from the State Public Information Act Compliance Board (Board), the Custodian of Records shall notify the Administrative Services Director. A written response containing the required information shall be filed with the Board within 30 days after receipt of the complaint (Md. Code GP § 4-1A-06). The Custodian of Records shall cooperate with the Board and participate in any processes outlined by law (Md. Code GP § 4-1A-05 et seq.). Legal counsel should be consulted with regard to all such challenges unless waived by the Administrative Services Director.

In the event that the Custodian of Records becomes aware that an applicant has made a complaint to the Office of the Public Access Ombudsman, the Custodian of Records shall notify the Administrative Services Director. Legal counsel should be consulted with regard to all such complaints unless waived by the Administrative Services Director (Md. Code GP § 4-1B-04; Md. Code GP § 4-301).

If the Custodian of Records believes that an applicant's request or pattern of requests is frivolous or has been made in bad faith or with the purpose to annoy, the Custodian of Records should notify the Administrative Services Director, who, in consultation with legal counsel, should determine whether a complaint should be made with the Ombudsman or Board as allowed by law (Md. Code GP § 4-1A-01 et seq.; Md. Code GP § 4-1B-01 et seq.).

802.6 RELEASE RESTRICTIONS

Examples of release restrictions include:

- (a) Any personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, personal email address, and telephone number; and medical or disability information that is contained in any driver's license record, motor vehicle record, or any agency record, including traffic accident reports, is restricted except as authorized by the Agency, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Records of ongoing investigations (Md. Code GP § 4-351).
- (c) Traffic and criminal records may not be released to persons reasonably known to be soliciting or marketing legal services (Md. Code GP § 4-315).
- (d) Arrest warrants and associated charging documents may not be released until the warrant has been served or 90 days has elapsed since the warrant was issued (Md. Code GP § 4-316).
- (e) Personnel records, including retirement records, medical records, and personal employee information, including an employee's home address, email address, or telephone number (Md. Code GP § 4-306; Md. Code GP § 4-311; Md. Code GP § 4-312; Md. Code GP § 4-331).
- (f) Surveillance images (Md. Code GP § 4-322).

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- (g) Information systems, alarm or security systems, and emergency policies, procedures, and plans (Md. Code GP § 4-314.1; Md. Code GP § 4-338; Md. Code GP § 4-339; Md. Code GP § 4-352).
- (h) Any record that the Custodian of Records reasonably believes would cause substantial injury to the public interest may be temporarily denied (Md. Code GP § 4-358).
- (i) Records relating to juveniles (Md. Code CJ § 3-8A-27).
- (j) Criminal history records (Md. Code CP § 10-219).

802.7 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the State's Attorney, Assistant Attorney General or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Agency so that a timely response can be prepared.

802.8 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the agency name and to whom the record was released.

Each audio/video recording released should include the agency name and to whom the record was released.

802.9 SECURITY BREACHES

Members who become aware that any Maryland Alcohol, Tobacco, and Cannabis Commission system containing personal information may have been breached should notify the Division Administrator as soon as practicable.

The Division Administrator shall ensure the required notice is provided to the Office of the Attorney General, the Department of Information Technology, and the persons whose personal information is reasonably believed to have been breached pursuant to the requirements set forth in Md. Code SG § 10-1305. Notice shall be in the form and manner specified in Md. Code SG § 10-1305.

Notice shall be given as soon as reasonably practicable after discovery of the possible breach consistent with the legitimate needs of the Maryland Alcohol, Tobacco, and Cannabis Commission and any measures to determine the scope of the breach, the identity of those affected, and to restore the integrity of the breached system. Notice may be delayed if notification will impede a criminal investigation or jeopardize homeland or national security (Md. Code SG § 10-1305).

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For purposes of the notice requirement, personal information includes a person's first name, first initial and last name, personal mark, or unique biometric or genetic print or image in combination with any one or more of the following (Md. Code SG § 10-1301):

- (a) Social Security number and Individual Taxpayer Identification Number
- (b) Driver's license number, Maryland identification card number or other similar identification number, including a passport number
- (c) Full account number, credit or debit card number, or any required security code, access code, or password that would permit access to an individual's financial account

If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Division Administrator should promptly notify the appropriate member designated to oversee the security of protected information (see the Protected Information Policy).

802.10 EXPUNGEMENT

Expungement orders received by the Agency shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall expunge such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once a record is expunged, members shall respond to any inquiry as though the record did not exist (Md. Code CP § 10-101 et seq.).

Unless an order is stayed pending an appeal, the Custodian of Records served with an order of expungement of a juvenile record under Md. Code CJ § 3-8A-27.1 shall notify the court, the petitioner, and all parties in writing within 60 days after entry of the order that the Agency has complied with the order.

802.11 FILE ACCESS AND SECURITY

The security of files in the Field Enforcement Division must be a high priority and shall be maintained as mandated by state or federal law. All case reports including, but not limited to, initial, supplemental, follow-up, evidence and any other reports related to a police agency case, including, criminal history records and publicly accessible logs, shall be maintained in a secure area within the Field Enforcement Division, and accessible only by authorized members of the agency. Access to case reports or files when authorized agency members are not available may be obtained through the Division Administrator.

The Division Administrator will also maintain a secure file for case reports deemed by the Executive Director as sensitive or otherwise requiring extraordinary access restrictions.

802.12 CONFIDENTIALITY

Designated authorized agency staff members have access to information that may be confidential or sensitive in nature. Members shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether in hard copy or electronic file format, or any other confidential, protected or sensitive information.

Protected Information

803.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Maryland Alcohol, Tobacco, and Cannabis Commission. This policy addresses the protected information that is used in the day-to-day operation of the Agency and not the public records information covered in the Records Policy.

803.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Maryland Alcohol, Tobacco, and Cannabis Commission and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

803.2 POLICY

Members of the Maryland Alcohol, Tobacco, and Cannabis Commission will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

803.3 RESPONSIBILITIES

The Executive Director shall select a member of the Agency to coordinate the use of protected information.

The responsibilities of this position include but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Motor Vehicle Administration (MVA) records, Maryland Criminal Justice Information System (CJIS), and Maryland Electronic Telecommunications Enforcement Resource System (METERS).
- (b) Developing, disseminating, and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy. See the Maryland Alcohol, Tobacco, and Cannabis Commission CJIS Access, Maintenance, and Security Policy for additional guidance.
- (c) Developing, disseminating, and maintaining procedures necessary to comply with confidentiality and release of information obtained from the Biological Agents Registry Program (BAR) (Md. Code HG § 17-604).
- (d) Developing, disseminating, and maintaining procedures necessary to comply with the requirements of Md. Code SG § 10-1702 to prevent the sale or redisclosure of personal records and geolocation data.

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- (e) Developing, disseminating, and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release, and security of protected information.
- (f) Developing procedures to ensure training and certification requirements are met.
- (g) Resolving specific questions that arise regarding authorized recipients of protected information.
- (h) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

803.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Maryland Alcohol, Tobacco, and Cannabis Commission policy, or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution. See the CJIS Access, Maintenance, and Security Policy for additional guidance.

803.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Division Administrator for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Agency may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Section to ensure proper documentation of the release.

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone, or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of agents, other agency members, or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

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803.6 SECURITY OF PROTECTED INFORMATION

The Executive Director will select a member of the Agency to oversee the security of protected information.

The responsibilities of this position include but are not limited to (see the CJIS Access, Maintenance, and Security Policy for additional guidance):

- (a) Developing and maintaining security practices, procedures, and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis, and containment of security incidents, including computer attacks.
- (d) Tracking, documenting, and reporting all breach of security incidents to the Executive Director and appropriate authorities.

803.6.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

CJIS Access, Maintenance, and Security

804.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use, maintenance, and security of agency systems that access Criminal Justice Information.

804.1.1 DEFINITIONS

Definitions related to this policy include:

Criminal Justice Information (CJI) - Data provided by FBI Criminal Justice Information Services (CJIS) that is necessary for law enforcement agencies to perform their mission and enforce the laws (e.g., biometric, identity history, person, organization, case/incident history data).

Security incident - Any incident that compromises the security of CJI or systems that access CJI. Examples include but are not limited to unauthorized use of legitimate code or credentials within agency systems, email communications that contain malicious code, data breaches, signaling to external systems, and unauthorized exporting of information.

804.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to maintain the security, confidentiality, and integrity of its information systems that access CJI by collaborating with appropriate state and federal agencies to implement the applicable established protocols.

804.3 CJIS COORDINATOR

The Executive Director shall appoint a CJIS coordinator, who shall be responsible for the Maryland Alcohol, Tobacco, and Cannabis Commission's adherence to FBI CJIS Security Policy requirements.

The CJIS coordinator shall establish procedures necessary to govern the agency's use, maintenance, and security of systems that access CJI as described in this policy.

804.3.1 CJIS COORDINATOR RESPONSIBILITIES

The responsibilities of the CJIS coordinator include but are not limited to:

- (a) Coordinating with others, such as the information technology or legal departments, as appropriate, to maintain agency compliance with FBI CJIS Security Policy requirements and the Maryland Department of Public Safety and Correctional Services' Information Technology and Communications Division.
- (b) Managing member accounts with access to CJI, including:
 - 1. Creating, enabling, modifying, disabling, and removing member accounts in accordance with this policy and the FBI CJIS Security Policy.
 - 2. Configuring member accounts in accordance with federal and state requirements (e.g., limiting unsuccessful login attempts).
 - 3. Reviewing member accounts for compliance with legal and policy requirements at least annually.

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- (c) Overseeing the maintenance, repair, and replacement of CJI systems and system components in accordance with manufacturer or vendor specifications and/or agency requirements, including:
 - 1. Maintaining a list of organizations and personnel approved by the Executive Director to perform maintenance on CJI systems.
 - 2. Approving, scheduling, documenting, and monitoring all maintenance and diagnostic activities, whether performed on-site, remotely, or off-site, and maintaining records.
 - 3. Verifying that non-escorted personnel performing maintenance on any CJI system or terminal possess the required access authorizations, and designating members who have the required access authorizations and technical competence to supervise the maintenance activities of personnel who do not possess the required access authorizations.
 - 4. Maintaining records for all system maintenance and diagnostic activities.
- (d) Monitoring agency systems that have access to CJI to ensure compliance with applicable laws and this policy; developing processes to detect, identify, and correct flaws in software and firmware; and conducting security updates as necessary.
- (e) Providing for the security of hardware that includes provisions for the following:
 - 1. How hardware is to be brought into and taken out of agency facilities
 - 2. Physical security of hardware within agency facilities
 - 3. Physical security of areas containing network connections and transmission lines, including monitored access
- (f) Implementing and carrying out the agency Incident Response Plan, including:
 - 1. Tracking and documenting all suspected or actual security incidents related to CJI in an appropriate manner.
 - 2. Directing annual testing of the agency's information security incident response capabilities using tabletop or walk-through exercises, simulations, or other types of testing.
 - 3. Making the appropriate notifications outside of the Agency (see the Records Maintenance and Release Policy for additional guidance).
 - 4. Providing information on security incidents to any third-party software developers or vendors as appropriate.
- (g) Protecting digital and non-digital media that contain CJI, including physical security, transportation, destruction/sanitization, and documentation requirements.
- (h) Developing and updating agency information security and privacy literacy training and incident response training as required by policy.
- (i) Maintaining audit records in accordance with the established records retention schedule, but in no event for less than one year.

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- (j) Managing the development, documentation, and dissemination of procedures for the following:
 - 1. Awareness and training
 - 2. Incident response
 - 3. Audit and accountability
 - 4. Access control
 - 5. Identification and authentication
 - 6. Configuration management
 - 7. Media protection
 - 8. Physical and environmental protection
 - 9. System and communications protection
 - 10. System and information integrity
 - 11. Maintenance
 - 12. Security and privacy planning
 - 13. Contingency planning
 - 14. Risk assessment
- (k) Reviewing this policy and related procedures as required by the FBI CJIS Security Policy and proposing updates as needed to the Executive Director.

804.4 MEMBER RESPONSIBILITIES

All members of the Agency shall be committed to detecting information security incidents and making the appropriate notifications.

Any member who suspects that there may have been unauthorized access, disclosure, or other compromise of CJI shall report their suspicions in accordance with the Incident Response Plan within one hour of the discovery.

Personally owned devices or systems and publicly accessible systems shall not be used to access, process, store, or transmit CJI.

804.5 SUPERVISOR RESPONSIBILITIES

Supervisors shall notify the CJIS coordinator when the account access of a member they supervise needs to be modified, disabled, or removed for any reason, such as resignation, termination, or change of duties.

804.6 MEMBER ACCOUNTS

Agency accounts used to access CJI shall only be created upon approval of the Executive Director or the authorized designee.

Member accounts shall be disabled within one week of any of the following:

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- (a) The account has expired.
- (b) The account is no longer associated with a member.
- (c) The account is found to be in violation of this policy.
- (d) The account has been inactive for 90 calendar days.

If any threat to the confidentiality, integrity, or availability of CJI related to a specific member account is detected, the CJIS coordinator or designated member shall disable the account within 30 minutes of the discovery.

804.6.1 ACCESS AUTHORIZATION

Access authorization for systems transmitting, receiving, using, or storing CJI shall be based on the principle of least privilege as follows:

- (a) Members shall only be granted access authorizations that are necessary to accomplish assigned agency tasks.
- (b) Accounts with security privileges shall only be authorized for members with an operational need for the privileges. Privileged functions shall be logged as they are executed.
- (c) Non-privileged members shall not be allowed to execute privileged functions.

804.6.2 ACCOUNT REVIEW ACTIVITIES

At least annually, the CJIS coordinator shall review member accounts for compliance with policy and applicable laws. The CJIS coordinator shall validate account privileges and remove or reassign them as necessary to accurately reflect the agency mission and law enforcement needs.

804.7 MEDIA PROTECTION

Access to media containing CJI shall be restricted to authorized members and stored within physically secured locations or controlled areas, in accordance with the FBI CJIS Security Policy.

Digital media (e.g., flash drives, external or removable hard disk drives, compact discs) containing CJI shall be encrypted. Personally owned digital media devices or digital media devices with no identifiable owner shall not be used on agency systems that store, process, or transmit CJI.

Non-digital media (e.g., paper files, printed pages, microfilm) containing CJI should be enclosed in an opaque folder or container if they are to be transported outside of physically secure locations or controlled areas. Media containing CJI shall not be left unattended outside of a physically secure location.

Transportation and transfers of media containing CJI shall be documented.

804.7.1 MEDIA DISPOSAL AND RELEASE

Digital media containing CJI shall be overwritten at least three times or degaussed (i.e., erased) prior to being disposed of, released from agency control, or released for reuse. Inoperable digital media devices, such as hard drives or solid-state drives that cannot be accessed to overwrite the

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data, shall be physically destroyed. When non-digital media is no longer needed for investigative or security purposes, it shall be destroyed by crosscut shredding or incineration.

804.8 SYSTEM AND INFORMATION INTEGRITY

The integrity of agency CJI systems shall be protected through the implementation of appropriate controls such as:

- (a) Flaw remediation.
- (b) System monitoring.
- (c) Security alerts, advisories, and directives.
- (d) Software, firmware, and information integrity controls.
- (e) Spam protection.

804.9 INCIDENT RESPONSE PLAN

[Insert your agency's Incident Response Plan consistent with CJIS 5.3 IR-4, IR-7, and IR-8 – see the Guide Sheet for additional guidance.]

804.10 SECURITY AWARENESS TRAINING

Members with physical or electronic access to CJI or CJI systems shall complete security awareness training appropriate to their assigned roles and responsibilities and shall certify their understanding by signing a formal Security Awareness Training Acknowledgement. Training shall include information security and privacy literacy training, security incident response training, and a review of this policy and related procedures.

Security awareness training shall be completed prior to accessing any CJI data or system and at least annually thereafter. Additional training shall be completed as required following any changes to CJI systems and for any member involved in a security incident within 30 days of the event.

Individual training records shall be maintained in accordance with the established records retention schedule, but in no event for less than three years.

The agency's CJIS training shall be reviewed for any necessary updates or changes annually and following any security incident or change in a CJI system or the FBI CJIS Security Policy.

804.11 SANCTIONS

Failure to adhere to policies and procedures pertaining to CJI shall result in disciplinary action, up to and including termination. Misuse of or failure to secure CJI may also result in temporary or permanent restrictions in the use of CJI. Intentional misuse of CJI may also be prosecutable under applicable laws.

Chapter 9 - Custody

Temporary Custody of Adults

900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Maryland Alcohol, Tobacco, and Cannabis Commission for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

Additional guidance for transferring persons in custody to another facility or court is provided in the Transporting Persons in Custody Policy.

900.1.1 DEFINITIONS

Definitions related to this policy include:

Temporary custody - The time period an adult is in custody at the Maryland Alcohol, Tobacco, and Cannabis Commission prior to being released or transported to a housing or other type of facility.

900.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission facility does not provide accommodations to process or hold any adult or juvenile that has been arrested. Agents will follow the policy of the allied agency used to detain and process defendants.

The Maryland Alcohol, Tobacco, and Cannabis Commission is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody of the Agency. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours.

900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Maryland Alcohol, Tobacco, and Cannabis Commission, but should be transported to a jail facility, a medical facility or other type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision or medication while in temporary custody.
- (c) Any individual who is seriously injured.
- (d) Individuals who are suspected suicide risk (see the Mental Health Evaluation Policy).

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1. If the agent taking custody of an individual believes that he/she may be a suicide risk, the agent shall ensure continuous direct supervision until evaluation, release or a transfer to an appropriate facility is completed.
- (e) Individuals who are obviously in crisis..
 - (f) Individuals who are under the influence of alcohol, a controlled substance or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
 - (g) Any individual who has exhibited extremely violent or continuously violent behavior.
 - (h) Any individual who has claimed, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk.
 - (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.
 - (j) Any other circumstance that would violate the policies or procedures of the hosting agency.

Agents taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances, or if authorized by the hosting agency.

900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized agency member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability.

At least one female agency member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process.

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present.

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

900.4 INITIATING TEMPORARY CUSTODY

The agent responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The agent should specifically

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ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The agent should promptly notify the Supervisor of any conditions that may warrant immediate medical attention or other appropriate action.

900.4.1 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Field Enforcement Division Director will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to agency members. There should also be a published list of foreign embassy and consulate telephone and fax numbers.

Agency members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
 - 1. If the country is on the mandatory notification list, then:
 - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
 - (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
 - (c) Forward any communication from the individual to his/her consular officers without delay.
 - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any faxed confirmation for the individual's file.
 - 2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
 - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
 - (b) Forward any communication from the individual to his/her consular officers without delay.

900.5 SAFETY, HEALTH AND OTHER PROVISIONS

900.5.1 TEMPORARY CUSTODY LOGS

Members of this agency shall abide by any documentation requirements for logs by the holding facility (e.g., Maryland State Police barracks).

900.5.2 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to agency members.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. Members shall comply with the opinion of medical personnel as to whether an individual

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in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an agent.

Those who require medication while in temporary custody should be released or transferred to another facility as appropriate.

900.5.3 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Supervisor shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists.

900.5.4 TELEPHONE CALLS

Every individual in temporary custody should be allowed to make a reasonable number of completed telephone calls as soon as possible.

- (a) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded.
- (b) If communication is deemed detrimental to an investigation, approval for such phone call shall not be granted by the officer.

900.5.5 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall be properly secured in accordance with the facility's requirements.

900.6 USE OF RESTRAINT DEVICES

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Maryland Alcohol, Tobacco, and Cannabis Commission unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

900.6.1 PREGNANT ADULTS

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

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900.7 PERSONAL PROPERTY

The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody, his/her items of personal property shall be returned. If the individual is transferred to a jail facility and the policy of the jail facility does not allow personal property, the Agent will store the property at the Maryland Alcohol, Tobacco, and Cannabis Commission evidence storage for safe keeping, documenting appropriately.

The Supervisor shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Supervisor shall attempt to prove or disprove the claim.

900.8 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY

The Field Enforcement Division Director will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody of the Maryland Alcohol, Tobacco, and Cannabis Commission. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate.
- (b) Immediate notification of the Supervisor, Executive Director and Field Enforcement Division Director.
- (c) Notification of the spouse, next of kin or other appropriate person.
- (d) Notification of the appropriate prosecutor.
- (e) Notification of the Assistant Attorney General.
- (f) Notification of the ATCC Legal Director
- (g) Notification of the Medical Examiner.
- (h) Evidence preservation.

900.9 RELEASE AND/OR TRANSFER

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms, and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband, or dangerous weapons, has been returned, or sent with, the individual.

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- (e) All pertinent documentation accompanies the individual being transported to another facility (copies of booking forms, medical records, an itemized list of property, warrant copies).
- (f) The individual is not permitted in any non-public areas of the Maryland Alcohol, Tobacco, and Cannabis Commission unless escorted by a member of the Agency.
- (g) Any known threat or danger the individual may pose (escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if the individual is being sent to another facility.
 - 1. The agency member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility. Any such communication should be noted in the Agency members report of temporary custody.
- (h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should consider requesting additional units to assist with the transportation. Members shall always be alert to inappropriate physical or verbal contact and take appropriate action as necessary.
- (i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with the person's personal needs as reasonable.

Temporary Custody of Juveniles

901.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Maryland Alcohol, Tobacco, and Cannabis Commission (34 USC § 11133).

901.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held by law enforcement for the juvenile's own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for the juvenile's protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

Juvenile offender - A juvenile 13 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest, or a juvenile 10 to 12 years of age who is alleged to have committed certain specified crimes that would subject an adult to arrest (e.g., crimes of violence, Md. Code CR § 14–101; aggravated cruelty to animals, Md. Code CR § 10-606; sexual offenses, Md. Code CR § 3-307; firearms offenses) (Md. Code CJ § 3-8A-01; Md. Code CJ § 3-8A-03). A juvenile offender also includes a juvenile in custody for handgun possession by a person under age 21 years under Md. Code PS § 5-133 (28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of an agent or other agency member at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication, is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation.

Safety checks - Direct, visual observation by a member of this agency performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of juveniles in temporary custody.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object.

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail or other object.
- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.

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- (d) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact.

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender.

901.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will avoid detaining a juvenile in a facility except in exigent circumstances where no reasonable alternative exists. If a juvenile must be detained, they will be held at the location of an allied agency and will be subject to that agency's Juvenile Detention Policy.

Juveniles may be held in temporary custody in the field, at a crime scene, or during a traffic stop only for as long as reasonably necessary to identify the individual, conduct an investigation, or arrange for their release to a parent, guardian, or responsible adult. The Maryland Alcohol, Tobacco, and Cannabis Commission is committed to ensuring juveniles are released as soon as practicable and kept safe during any period of temporary custody.

901.3 NOTIFICATIONS

When a juvenile is taken into custody, agents should immediately notify the juvenile's parent, guardian, or custodian of the custody, the reason for the custody, the juvenile's location, and how to meet with the juvenile. Other reasonable attempts to communicate this information should be made if direct contact cannot be immediately made (Md. Code CJ § 3-8A-14; Md. Code CP § 2-108). If the juvenile has been taken into protective custody, the agents should also immediately notify the county department of social services (Md. Code CJ § 3-814). If there is reason to believe that the juvenile is a victim of sex or human trafficking, as soon as practicable, agents shall notify the appropriate regional navigator, report to the local department of social services, and release the juvenile to a parent, guardian, or custodian, or to social services, as appropriate (Md. Code CJ § 3-8A-14).

Agents shall complete and forward required written reports, complaints, or citations when applicable, to the Department of Juvenile Services when taking a juvenile into custody in accordance with Md. Code CJ § 3-8A-14 and Md. Code CP § 2-108.

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901.4 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Maryland Alcohol, Tobacco, and Cannabis Commission when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.

Juveniles in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

901.4.1 PREGNANT JUVENILES

Juveniles who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

901.5 INTERVIEWING OR INTERROGATING

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent, to an interview or interrogation.

No custodial interrogation of a juvenile should occur without the juvenile having consulted with an attorney and without an actual or attempted contact of a parent, guardian, or custodian as set forth in Md. Code CJ § 3–8A–14.2 (Md. Code CJ § 3–8A–14.2; Md. Code CP § 2-405). Associated documentation of the attorney contacted and the contact or efforts to contact a parent, guardian, or custodian are also to be made (Md. Code CJ § 3–8A–14.2; Md. Code CP § 2-405).

All custodial interrogations of juveniles should be recorded in an audio and video format (e.g., body-worn camera) and only after the juvenile is advised the interrogation will be recorded (Md. Code CJ § 3–8A–14.2; Md. Code CP § 2-405).

901.6 RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING

Any agency record, including fingerprints and photographs, concerning a child is confidential and shall be maintained separate from those of adults. These may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as otherwise provided by law (Md. Code CJ § 3-8A-27(a)).

Custodial Searches

902.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants, or weapons into the Maryland Alcohol, Tobacco, and Cannabis Commission facility. Such items can pose a serious risk to the safety and security of agency members, individuals in custody, contractors, and the public.

Guidance for custody searches when transporting a person in custody may be found in the Transporting Persons in Custody Policy.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

902.1.1 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

Physical body cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

Strip search - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

902.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

902.3 FIELD AND TRANSPORTATION SEARCHES

An Agent should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any agency vehicle.

Whenever practicable, a custody search should be conducted by an Agent of the same sex as the person being searched. If an Agent of the same sex is not reasonably available, a witnessing officer should be present during the search.

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902.3.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this agency, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The property shall be documented in RMS.

902.3.2 VERIFICATION OF MONEY

All money shall be counted and witnessed by another agent or supervisor. All money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The agency member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

902.4 STRIP SEARCHES

No individual in temporary custody at any Maryland Alcohol, Tobacco, and Cannabis Commission facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
 - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on agency members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).
- (f) Upon authority of a valid search warrant.

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be

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determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

902.4.1 STRIP SEARCHES PROCEDURES

Strip searches shall be conducted as follows (28 CFR 115.115):

- (a) Written authorization from a supervisor shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include:
 - 1. The facts that led to the decision to perform a strip search.
 - 2. The reasons less intrusive methods of searching were not used or were insufficient.
 - 3. The written authorization for the search, obtained from the supervisor.
 - 4. The name of the individual who was searched.
 - 5. The name and sex of the members who conducted the search.
 - 6. The name, sex and role of any person present during the search.
 - 7. The time and date of the search.
 - 8. The place at which the search was conducted.
 - 9. A list of the items, if any, that were recovered.
 - 10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.

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902.4.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with supervisor authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy.

902.5 PHYSICAL BODY CAVITY SEARCH

No individual shall be subjected to a physical body cavity search.

902.6 GENDER IDENTITY OR EXPRESSION CONSIDERATIONS

If an individual who is subject to a strip search has a gender identity or expression that differs from their sex assigned at birth, the search should be conducted by members of the same gender identity or expression as the individual, unless the individual requests otherwise.

902.7 JUVENILES

No juvenile should be subjected to a strip search or a physical body cavity search..

Nothing in this section is intended to prevent an agent from rendering medical aid to a juvenile in emergency circumstances (see the Medical Aid and Response Policy for additional guidance).

Chapter 10 - Personnel

Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Maryland Alcohol, Tobacco, and Cannabis Commission and that are promulgated and maintained by the Human Resources.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Maryland Alcohol, Tobacco, and Cannabis Commission provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Agency does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Agency will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 RECRUITMENT

The Division Administrator in partnership with Human Resources shall employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy shall include:

- (a) Identification of racially and culturally diverse target markets.
- (b) Use of marketing strategies to target diverse applicant pools.
- (c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive agency website and the use of agency-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.
- (e) Employee referral and recruitment incentive programs.
- (f) Consideration of shared or collaborative regional testing processes.

The Agency shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Agency should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of their status in the recruiting process.

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1000.4 SELECTION PROCESS

The Agency shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Agency shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Personal and professional reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
 1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Polygraph or voice stress analyzer examination (when legally permissible)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment
- (k) Relevant national and state decertification records, if available, including the National Decertification Index

1000.4.1 CRIMINAL HISTORY INQUIRIES

The Division Administrator should establish procedures to ensure that inquiries into the criminal history of applicants conform to the requirements of Md. Code LE § 3-1501 et seq.

1000.4.2 FACIAL RECOGNITION

The Agency should not use any facial recognition service to create a facial template of a candidate during an interview for employment unless the candidate provides a written consent waiver containing (Md. Code LE § 3-717):

- (a) The candidate's name.
- (b) The date of the interview.

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- (c) A statement that the candidate consents to the use of facial recognition during the interview.
- (d) A statement that the candidate has read and understood the consent waiver form.

1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify the candidate's personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Maryland Alcohol, Tobacco, and Cannabis Commission.

The Division Director shall ensure that background investigations for candidates for agent include (COMAR 12.04.01.05):

- (a) A check of military records, when applicable, including obtaining a complete copy of the candidate's discharge document.
- (b) A report from a credit agency regarding the candidate's current and past credit history.
- (c) An investigation of the prior illegal use of controlled substances by the candidate as specified under COMAR 12.04.01.16. Prior marijuana use is not a disqualifier for certification as an agent and may not be the basis for disqualifying an applicant for a position as an agent (Md. Code PS § 3-209; Md. Code PS § 3-215).
- (d) An examination of school records or interviews with school officials if the candidate attended school within the last five years.
- (e) Interviews of:
 - 1. Personal references furnished by the candidate.
 - 2. Neighbors of the candidate within the past five years.
 - 3. Current and past employers within the last five years.
 - 4. Coworkers within the last five years.

The Agency shall maintain a record of the background investigation on each candidate hired as an agent by this agency. The results of the investigation shall be recorded on an Application for Certification (AFC), including any supplemental information, as specified in COMAR 12.04.01.01 and submitted to the Maryland Police Training and Standards Commission (MPTSC). The MPTSC may refuse to certify the candidate based upon supplemental information (COMAR 12.04.01.05).

1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA (15 USC § 1681d).

1000.5.2 STATE NOTICES

The Executive Director or the authorized designee shall complete an AFC for an agent hired by this agency. The Executive Director is responsible for (COMAR 12.04.01.02):

- (a) Accurately completing the AFC.

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- (b) Submitting the AFC to the MPTSC (COMAR 12.04.01.08).
- (c) Signing the AFC to certify that the MPTSC's selection standards have been met.
- (d) Including on the AFC the:
 - 1. Date the candidate completed the certification requirements.
 - 2. Agency telephone number for the Executive Director.
- (e) Submitting the AFC to the MPTSC if he/she has, within one year before submitting the AFC:
 - 1. Completed or verified for the candidate each of the selection standards as required under COMAR 12.04.01.04 or COMAR 12.04.01.08.
 - 2. Determined that the candidate meets each of the selection standards under COMAR 12.04.01.04 or COMAR 12.04.01.08.

False or misrepresented information on the AFC is a basis for rejection or revocation of certification by the MPTSC and may be the basis for separate administrative or legal action (COMAR 12.04.01.02).

1000.5.3 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private, or protected information, the Division Administrator shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Md. Code LE § 3-712).

The Division Administrator should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate, and validated.
- (c) The Agency fully complies with applicable privacy protections and local, state, and federal law.

Regardless of whether a third party is used, the Division Administrator should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.4 INTERVIEWS

Background investigation interviews may be conducted (COMAR 12.04.01.05):

- (a) In person.
 - 1. A personal interview conducted as part of a background investigation is considered appropriate when an interviewee is available within 50 miles of this agency.
- (b) By telephone.

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- (c) By using a designated agency form and questionnaire that the interviewer or individual interviewed is required to complete.
- (d) By using other lawful methods designed to elicit useful information from an individual concerning the candidate.

Personal references and others residing outside the state may be contacted by correspondence or telephone (COMAR 12.04.01.05).

1000.5.5 OUT-OF-STATE CANDIDATES

When the candidate for agent has resided or been employed out-of-state, the background investigation may be performed by an appropriate law enforcement agency or a legitimate private background investigation agency in the area where the candidate lived or worked (COMAR 12.04.01.05).

If a candidate has been employed as a police officer for the federal government or in another state, the Executive Director shall:

- (a) Report the law enforcement agency's name and jurisdiction to the MPTSC.
- (b) Forward any supplemental information obtained from the previous out-of-state law enforcement agency or from any other source.

1000.5.6 INVESTIGATIONS BY OTHER AGENCIES

The Agency may authorize another individual, office or agency to conduct a background investigation (COMAR 12.04.01.05).

The Maryland State Police or a local law enforcement agency may assist this agency in a background investigation.

1000.5.7 CRIMINAL RECORD CHECKS AND FINGERPRINTS

The Agency shall fingerprint candidates for agent and submit the fingerprints to the appropriate local, state, and national agencies for a search of criminal records (COMAR 12.04.01.05).

1000.5.8 PRIOR PEACE OFFICER EMPLOYMENT

The Executive Director or the authorized designee should require candidates for agent to disclose, under penalty of perjury, all prior instances of employment as an officer at other law enforcement agencies and to authorize the Maryland Alcohol, Tobacco, and Cannabis Commission to obtain the candidate's personnel and disciplinary records from those agencies (Md. Code PS § 3-215). The background investigator should obtain and review any personnel and disciplinary records and include the results in the background report. The Executive Director or the authorized designee should certify to the MPTSC that applicant's disciplinary record was reviewed (Md. Code PS § 3-215).

1000.5.9 RECORDS RETENTION

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule.

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1000.5.10 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file.

1000.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law. Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Agency and the community.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Human Resources should maintain validated standards for all positions.

1000.7.1 STANDARDS FOR AGENTS

Candidates for certification as an agent shall meet the following MPTSC minimum standards (COMAR 12.04.01.04):

- (a) Be 21 years old or older.

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- (b) Be a United States citizen and submit documents supporting a claim of citizenship to this agency.
 - 1. Candidates may be permanent legal residents if they are honorably discharged veterans of the United States armed forces and have applied to obtain United States citizenship, provided that their application for citizenship must be ultimately approved (Md. Code PS § 3-209).
- (c) Possess and submit either of the following:
 - 1. A high school diploma issued by a high school or recognized by the State Board of Education.
 - 2. A General Education Development (GED) certificate or diploma issued by Maryland or another state or recognized by the State Board of Education.
 - (a) A college degree may be accepted in place of high school diploma or GED requirements.
 - (b) In the absence of a copy of a diploma, the Executive Director may accept a certified transcript indicating that a candidate successfully completed the requirements for graduation from a high school or college.
- (d) Be eligible under federal and Maryland law to possess and use a handgun.
- (e) Be of good moral character as determined by a thorough background investigation and criminal history investigation, including a fingerprint check, according to the requirements under COMAR 12.04.01.05.
- (f) Submit to mental health and physical agility assessments as required by the MPTSC and any related regulations and be free from any physical, emotional, or mental condition which might adversely affect the exercise of police powers as evidenced by examinations and recommendations by appropriate health care officials (Md. Code PS § 3-209).
- (g) Possess a valid driver's license
- (h) Participate in an interview with the Executive Director or the authorized designee.
- (i) Submit to a screening for controlled dangerous substances, narcotic drugs, and marijuana according to procedures outlined in COMAR 12.04.01.15.
- (j) Submit to an implicit bias test as required by the MPTSC and any related regulations (Md. Code PS § 3-207).

The Executive Director may establish more restrictive standards than those of the MPTSC for selection of a candidate for the position of agent.

The Executive Director may submit a request for a waiver of MPTSC selection standards in accordance with the requirements of COMAR 12.04.01.14.

1000.8 PROBATIONARY PERIODS

The Administrative Services Director should coordinate with the Maryland Alcohol, Tobacco, and Cannabis Commission Human Resources to identify positions subject to probationary periods and procedures for:

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- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

Performance Evaluations

1001.1 PURPOSE AND SCOPE

This policy provides guidelines for the Maryland Alcohol, Tobacco, and Cannabis Commission Performance, Planning, and Evaluation (PEP) Program.

1001.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission shall use PEP process to facilitate communication between employees and supervisors regarding expectations and job performance. The process offers employees and supervisors an opportunity to acknowledge the successes achieved over the year, and to openly discuss areas for enhancement and improvement. In cases of poor performance, it is meant to compliment the disciplinary process by providing a means to assist employees to improve.

1001.3 TYPES OF EVALUATIONS

The Agency shall use the following types of Evaluations:

1. Performance Evaluation

- (a) The PEP rating instrument contains an automatic tabulation feature, reducing the time spent calculating scores and decreasing the opportunity for errors.
- (b) The PEP instrument contains a field for noting the PEP Cycle. The supervisor should enter the beginning and ending dates of that PEP cycle.
- (c) The PEP instrument also contains a field for noting the fiscal year (FY). The FY is determined by using the date on which the end-of-cycle rating occurs (e.g., if the end-of-cycle is due between January 1 and June 30, 2010, the FY for the PEP is 2010; if the end-of-cycle is due between July 1 and December 31, 2010, the FY for the PEP is 2011).
- (d) Check boxes are provided to indicate the employee's status as: Executive Service; Management Service; Special Appointment; or, Political Special Appointment. If the employee is employed in any of these capacities, the applicable status should be checked. The same status designation should be checked in the spaces provided over the employee's signature to ensure that the employee is aware of the employee's "at will" employment status.
- (e) There are three (3) versions of the form: one for supervisory employees; one for management employees; and, one for non-supervisory employees.
- (f) Each PEP instrument contains two rating areas: the first is used to rate the employee on how s/he has performed the specific job duties; the second is used to rate the employee on a uniform set of Behavioral Elements.
- (g) The behavioral elements for supervisors and managers are:
 - Work ethic
 - Teamwork

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- Communication
- Customer service
- Initiatives
- Work performance
- Supervision

Non-supervisory employees are rated on all of these elements except Supervision.

Each employee must be rated on both the Specific Job Duties and the Behavioral Elements sections of the PEP instrument at each End-of-Cycle rating and whenever the complete form is used for a Mid-Cycle evaluation.

The performance standards are documented in the Position Description (Form MS-22). During the five days preceding the Mid- and End-Cycle evaluation, the employee may complete a self-assessment to discuss with his or her supervisor during the evaluation meeting.

2. Probationary Evaluations:

- (a) In addition to the Performance Planning and Evaluation Process, employees on probation shall receive a written evaluation of the employee's performance and any recommendations for improvement at the end of the employee's first 90 days of probation, at the end of the initial probationary period, and at the mid-point and end of any extension of the probationary period.

1001.3.1 RATINGS

When completing an evaluation, the supervisor will determine or use the PEP instrument to calculate the rating category that best defines the employee performance.

The scoring system includes three (3) ratings: Outstanding, Satisfactory, and Unsatisfactory. Numerical values have been assigned to three ratings so that an overall numerical average can be obtained; however, raters must keep in mind that the actual ratings are Outstanding, Satisfactory, and Unsatisfactory. As a result, assigned ratings with decimal portions, such as 1.7 or 2.5, are not allowed and are invalid. The following chart explains the numerical values and their meaning:

Rating	Rating Value	Explanation
Outstanding	3	Exceptional performance. Achievements are clearly superior to the level of performance required for the job.
Satisfactory	2	Met the required and expected results for the job. Good performance, which is expected of a fully experienced or competent employee.

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Unsatisfactory	1	Performance is unacceptable and shows no significant progress or improvement. Improvement is critical.
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Two added features at the end of the PEP instrument are an acknowledgment section just above the employee's signature for employees in at-will positions similar to the check boxes at the beginning of the form, and a supervisor's attestation of adherence to the Code of Fair Employment Practices.

1001.3.2 OVERALL "UNSATISFACTORY PERFORMANCE"

If an employee is given an overall "Unsatisfactory" rating on an end-of-cycle appraisal, the employee's supervisor shall inform the employee that the employee has 180 days to improve to the level of "Satisfactory."

If an employee is rated overall "Unsatisfactory" on the end-of-cycle rating, the supervisor and employee must complete a Performance Improvement Plan to:

- (a) Identify the aspects of the employee's performance which are unacceptable (whether it is a position-specific performance element or a behavioral element);
- (b) Describe what the employer will do to assist the employee and a description of what the employee must do to improve during the 180-day improvement period; and
- (c) provide the date upon which the employer and employee will meet to evaluate the employee's performance at the close of the 180-day improvement period.

Remember to "check in" with the employee throughout this period, providing feedback on performance. Ideally, the supervisor should set a schedule for periodic meetings with the employee. Most importantly, the supervisor must meet with the employee 90 days into this 180-day improvement period. This is an opportunity to assess where the employee is in the process of improvement and to document deficiencies.

Failure to meet standards at the end of the 180-day period shall result in the employee's termination from State service.

1001.4 EVALUATION PROCESS

The PEP process involves three distinct phases, requiring employees and their supervisors to meet at least two times a year, based on the employee's State entry-on-duty (EOD) date.

The meetings occur at the:

Beginning-of-cycle, at which the employee and supervisor meet to discuss the employee's status (i.e., skilled or professional service, management service, executive service, special appointee, or political special appointee), review the Position Description form (MS-22 or PD) for accuracy, make changes to it if necessary, and talk about performance expectations for the coming year;

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Mid-cycle, during which the supervisor and employee discuss the employee's performance during the first six months of the PEP Cycle; and

End-of-cycle, during which the employee and supervisor review the employee's performance for the entire rating year, determine whether there will be any specific tasks in addition to or outside of the normal duties to be performed during the next rating cycle, plan for necessary training, and generally review any comments contained on the rating instrument.

The Beginning-of-cycle meeting and End-of-Cycle meeting may coincide after the first year of employment.

1001.5 EVALUATION FREQUENCY

The PEP Cycle will begin on either January 1 or July 1, depending on the employee's State EOD date, and end one year later. For employees with an EOD date between January 1 and June 30, the PEP Cycle will begin on January 1. For those whose EOD date is between July 1 and December 31, the PEP Cycle will begin on July 1.

All employees will be evaluated twice annually during two common evaluation periods in June and December. Employees whose PEP Cycles begin on January 1 will receive their Mid-Cycle evaluation during the month of June, and will receive their End-of-Cycle rating during the month of December. Employees whose PEP Cycles begin on July 1 will receive their Mid-Cycle evaluation during the month of December, and will receive their End-of-Cycle rating during the month of June.

1001.6 GRIEVANCE

No disciplinary action is attached to the mid-cycle rating itself, and the mid-cycle rating is therefore not grievable; however, if the employee disagrees with the supervisor's mid-cycle rating, the employee may, within five (5) days of receipt of the mid-cycle evaluation, submit to the employee's appointing authority a written response to the rating, which shall be attached to the written mid-cycle evaluation. If for good cause the employee requests an extension within the first five (5) days, the supervisor may extend the response period for up to fifteen (15) days from the employee's receipt of the mid-cycle evaluation.

Grievances with the End-cycle evaluation must follow the employee grievance process.

1001.7 RETENTION AND DISTRIBUTION

An appeal shall be maintained by the Agency in accordance with the Personnel Records Policy. An image of the evaluations will be available on demand in the employee's Workday profile.

Promotions

1002.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions within the Maryland Alcohol, Tobacco, and Cannabis Commission.

1002.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission determines promotions in a non-discriminatory manner. Promotions are made by the Executive Director.

Law enforcement agents must meet the minimum qualifications outlined in the official Agent Supervisor job description, including required years of experience, satisfactory performance, and completion of any necessary certifications or training.

1002.3 GENERAL REQUIREMENTS FOR LAW ENFORCEMENT (AGENT SUPERVISOR)

Applicants must submit:

- (a) An application
- (b) A professional resume summarizing law enforcement experience and accomplishments, particularly while employed as an agent with ATCC. Leadership assignments, training, and any other accomplishments.

Interview and Evaluation:

All qualified candidates will participate in a structured panel interview using consistent questions and standardized scoring.

1002.3.1 SELECTION CREDITS (SP&P §7#207)

The following requirements should be considered when selecting a candidate for promotion to Agent Supervisor.

- (a) At least five years of experience as a Maryland certified law enforcement officer
- (b) At least one year experience as a Maryland Alcohol, Tobacco, and Cannabis law enforcement agent.
- (c) Off Probation.

1002.3.2 SCORING (SP&P §7#208)

The total score will be based on a 100-point scale:

CATEGORY	MAXIMUM POINTS
Resume Review	40
Panel Interview	60
BONUS POINTS	
Maryland Resident	5
Years of State Service (1/4 pt per year)	Up to 5

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1002.3.3 CANDIDATE CATEGORIZATION (SP&P § 7-208)

Candidates will be grouped based on their total score (base + selection credits):

- Best Qualified: 90–100 points
- Better Qualified: 80–89 points
- Qualified: 70-79 points

Candidates will be placed in the appropriate category based on the totality of their respective scores, in random order.

Selections will be made from the Best Qualified category by the Division Director.

In the event there are no applicants scored in the Best category, a selection will be made from the Better Qualified category.

In the event there are no applicants scored in the Better Category, a selection will be made from the Qualified category.

1002.4 TRANSPARENCY & FAIRNESS

- Scoring criteria and categories will be provided in advance through the internal job posting.
- All scores and documentation will be retained.
- Candidates may request post-process feedback on their performance and scoring.

1002.5 PROMOTIONAL REQUIREMENTS FOR MANAGERS (DIRECTOR, ASSISTANT DIRECTOR, AGENT IN CHARGE, CIVILIAN MANAGERS)

- The Executive Director, at their discretion, may appoint an individual to a management position within the agency.
- The Field Enforcement Division Director, in consultation with the Executive Director, may appoint an individual to Agent in Charge.
- Other Division Directors, in consultation with the Executive Director, may appoint an individual in their division to a unit management position within the agency.

Grievances

1003.1 PURPOSE AND SCOPE

The grievance process is governed by the Annotated Code of Maryland, State Personnel and Pensions System, Division I State Personnel, Title 12 Grievance Procedure in State Personnel Management System.

This policy is intended to provide employees with clarification and guidance regarding the Title 12 Grievance Procedures.

1003.1.1 GRIEVANCE DEFINED

A grievance is a dispute or difference of opinion between an employee and the employer regarding the meaning, interpretation, or application of any of the following:

- A term or condition of the employee's collective bargaining agreement or memorandum of understanding (MOU);
- The contents of this Policy Manual;
- Rules and regulations governing personnel practices or working conditions;
- Workplace issues that do not amount to misconduct under the Personnel Complaints Policy, including but not limited to:
 - Fraud,
 - Waste,
 - Abuse of authority,
 - Gross mismanagement, or
 - Any inappropriate conduct or practice that may pose a threat to the health, safety, or well-being of agency members;
- A personnel policy or regulation adopted by the Secretary of the Department of Budget and Management (DBM); or
- Any other policy or regulation over which agency management has control.

Excluded Matters:

The following matters are not subject to the grievance process and are specifically excluded from the definition of a grievance:

- The pay grade or range assigned to a job classification;
- The amount or effective date of a statewide pay increase;
- The establishment of a job classification or classification standards;
- The assignment of a class to a service category;
- Mid-year performance appraisals;
- Oral reprimands or counseling sessions;

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- Allegations of discrimination, harassment, or retaliation as defined in the Discriminatory Harassment Policy;
- Personnel complaints that involve alleged misconduct or improper job performance by an agency employee, which, if substantiated, would violate agency policy, federal, state, or local law, as addressed under the Personnel Complaints policy.

Definitions- Related Terms

- Employer-refers to one or more of the following:
 1. The employee's appointing authority;
 2. The employee's principal unit; or
 3. The Department of Budget and Management.
- Exclusive Representative has the meaning defined in § 3-101 of the State Personnel and Pensions Article.

1003.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to provide a just and equitable system for the prompt handling of employee grievances without discrimination, coercion, restraint or retaliation against any employee who submits or is otherwise involved in a grievance.

1003.2.1 COVERED EMPLOYEES

This grievance policy applies to all employees in the State Personnel Management System within the Executive Branch of Maryland government, as well as employees in independent personnel systems, except as otherwise provided by law.

Excluded Employees:

This policy does not apply to:

- (a) Employees appointed by the Governor when the appointment requires the Governor's approval;
- (b) Temporary employees; or
- (c) Employees who are covered by a collective bargaining agreement that contains a separate grievance procedure.

1003.3 PROCESS

Grievances may be brought by an individual employee or by a group representative on behalf of one or more employees. Employees have the right to representation during any part of the grievance process.

Except as otherwise required under a collective bargaining agreement or memorandum of understanding, if an employee believes they have a grievance as defined in this policy, the employee shall follow the steps outlined below.

Standard Grievance Process:

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Except as otherwise provided by this policy, the grievance process consists of the following three steps:

- (a) Step One: Initiation of the grievance with the employee's immediate supervisor or designated management official.
- (b) Step Two: Appeal to the head of the principal unit.
- (c) Step Three: Appeal to the Secretary of the Department of Budget and Management (DBM) or the Secretary's designee.

Limitations on Grievances Involving Performance Ratings:

If the grievance is based solely on a performance rating of "Satisfactory" or better:

- (a) The employee may proceed only through Step One and Step Two of the grievance process.
- (b) The decision issued at Step Two is final and may not be appealed to Step Three.

Modified Procedure Based on Management Structure:

- (a) If the employee's appointing authority is also the head of the principal unit, the employee may bypass Step Two and appeal directly from Step One to Step Three.
- (b) If the grievance arises from an action taken directly by the principal unit or the Department, the parties may mutually agree to initiate the grievance at Step Two or Step Three, as appropriate

1003.4 GRIEVANCE RECORDS

At the conclusion of each step in the grievance process, a copy of the grievance and the written disposition shall be provided to the employee (grievant) and, if applicable, the employee's designated representative.

Copies of the grievance and its disposition may be provided in either printed or electronic format and forwarded to Human resources for inclusion into a secure file for all written grievances.

1003.5 POLICY OR TRAINING IMPLICATIONS

If an employee who participates in the grievance review process identifies any issue that may warrant an immediate revision to this Policy Manual, a procedural change or an immediate training need, the employee should promptly notify the Executive Director in a memorandum.

Anti-Retaliation

1004.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or collective bargaining agreement or memorandum of understanding.

1004.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

1004.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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1004.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Executive Director, Agency HR, Agency EEO, or the State Human Resources Administrator.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1004.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Executive Director via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

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1004.6 COMMAND STAFF RESPONSIBILITIES

The Executive Director should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

1004.7 WHISTLE-BLOWING

State law protects agents from discrimination or other negative consequences for disclosing mismanagement, waste, dangers to public health/safety, or law/policy violations, or for lawfully exercising constitutional rights (Md. Code PS § 3-110). State law also protects employees from discrimination or retaliation for opposing discriminatory practices prohibited by Md. Code SG § 20-601 et seq. or participating in matters related to possible violations of that law (Md. Code SG § 20-606).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Human Resources for investigation pursuant to the Personnel Complaints Policy.

1004.8 RECORDS RETENTION AND RELEASE

The Division Administrator shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1004.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

Reporting of Arrests, Convictions and Court Orders

1005.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that members must follow when certain arrests, convictions and court orders restrict their ability to perform the official duties and responsibilities of the Maryland Alcohol, Tobacco, and Cannabis Commission. This policy will also describe the notification requirements and procedures that certain retired agents must follow when an arrest, conviction or court order disqualifies them from possessing a firearm.

1005.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission requires disclosure of member arrests, convictions and certain court orders to maintain the high standards, ethics and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the Agency.

1005.3 DOMESTIC VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and Maryland law prohibits individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of the use or attempted use of force, or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Md. Code PS § 5-133).

All members and retired agents with identification cards issued by the Agency are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order, and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1005.4 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

COMAR 12.04.01.04 prohibits any individual who is ineligible under federal or Maryland law to possess or use a handgun from receiving or maintaining an agent certification through the Maryland Police Training and Standards Commission (MPTSC). Additionally, Md. Code PS § 3-107 and Md. Code PS § 3-212 require the termination and decertification of an agent who is convicted of a felony, perjury, or other misdemeanor related to truthfulness.

While legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this agency may be inherently in conflict with law enforcement duties and the public trust, and shall be reported as provided in this policy.

1005.5 REPORTING

All members and all retired agents with identification cards issued by the Agency shall immediately notify their supervisors (retired agents should immediately notify the Field Enforcement Director or the Executive Director in writing of any past or current criminal detention, arrest, charge, or

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conviction in any state or foreign country, regardless of whether the matter was dropped or rejected, is currently pending or on appeal, and regardless of the penalty or sentence, if any.

All members and all retired agents with identification cards issued by the Agency shall immediately notify their supervisors (retired agents should immediately notify the Field Enforcement Director or the Executive Director) in writing if they become the subject of a domestic violence-related order or any court order that prevents the member or retired agent from possessing a firearm or requires suspension or revocation of applicable MPTSC certification.

Any member whose criminal arrest, conviction, or court order restricts or prohibits that member from fully and properly performing the member's duties, including carrying a firearm, may be disciplined. This includes but is not limited to being placed on administrative leave, reassignment, and/or termination.

Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member, on the member's own time and at the member's own expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline, up to and including termination.

Retired agents may have their identification cards rescinded or modified, as may be appropriate (see the Retiree Concealed Firearms Policy).

1005.5.1 NOTIFICATION REQUIREMENTS

The Agency shall report arrests or convictions to the MPTSC for possible suspension and revocation of any applicable certification (Md. Code PS § 3-212).

Drug- and Alcohol-Free Workplace

1006.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding controlled dangerous substances (CDS) and alcohol in the workplace (41 USC § 8103).

1006.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to provide a drug- and alcohol-free workplace for all members.

1006.3 GENERAL GUIDELINES

Alcohol and CDS use in the workplace or on agency time can endanger the health and safety of agency members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify a supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

1006.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

1006.3.2 MEDICAL CANNABIS

Possession, use, or being under the influence of medical cannabis on-duty is prohibited and may lead to disciplinary action.

1006.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using CDS or alcohol on agency premises or on agency time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to CDS, medication or alcohol use.

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Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

1006.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and CDS problems (41 USC § 8103). Insurance coverage that provides treatment for CDS and alcohol abuse also may be available. Employees should contact Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or CDS problems lead to performance problems.

1006.6 WORK RESTRICTIONS

If a member is on-duty informs a supervisor that he/she has consumed any alcohol, CDS or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol, CDS or medication, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Agency.

1006.7 SCREENING TESTS

A supervisor may require an employee to submit to a screening under any the following circumstances (Md. Code HG § 17-214(h)):

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or CDS.
- (b) The employee discharges a firearm in the performance of the employee's duties (excluding training or authorized euthanizing of an animal).
- (c) The employee discharges a firearm issued by the Agency while off-duty, resulting in injury, death, or substantial property damage.
- (d) The employee drives a motor vehicle in the performance of the employee's duties and becomes involved in an incident that results in bodily injury, death, or substantial damage to property.

An agent who is under investigation may be ordered to submit to a blood alcohol test and/or a blood, breath, or urine test for CDS when the testing specifically relates to the investigation (Md. Code PS § 3-107).

1006.7.1 SUPERVISOR RESPONSIBILITIES

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or CDS, or both.

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- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

1006.7.2 DISCIPLINE

An employee may be subject to disciplinary action if the employee:

- (a) Fails or refuses to submit to a screening test (Md. Code PS § 3-107).
- (b) After taking a screening test that indicates the presence of a CDS, fails to provide proof, within 72 hours after being requested, that the employee took the CDS as directed, pursuant to a current and lawful prescription issued in the employee's name.

1006.7.3 TESTING REQUIREMENTS

The provisions of a collective bargaining agreement that cover preliminary drug testing of a job applicant preempt conflicting portions of this policy (Md. Code HG § 17-214(l)).

When an employee is required to be tested for job-related reasons for the use or abuse of any CDS or alcohol, this agency shall:

- (a) When using a single-use test device, collect, handle, store and ship each specimen in a manner that maintains the employee donor's identity and confidentiality, the physical integrity of the specimen and precludes contamination of the specimen (Md. Code HG § 17-214(d)(1)).
- (b) Maintain a written record of the chain of custody of each specimen from the time that the specimen is collected until the time that the specimen is no longer needed for retesting (Md. Code HG § 17-214(d)(2)).
- (c) Have the specimen tested by a laboratory that is certified or otherwise approved and at the time of testing provide the name and address of the laboratory, if requested by the employee (Md. Code HG § 17-214(b)(1)).
- (d) Upon notice from the laboratory that an employee has tested positive, deliver to the employee by certified mail or in person and within 30 days from the date the test was performed (Md. Code HG § 17-214(c)(1)):
 - 1. A copy of the laboratory test indicating the test results.
 - 2. A copy of this policy.
 - 3. If applicable, written notice of intent to take disciplinary action, terminate employment or change the conditions of continued employment.
 - 4. A statement or copy of the provisions set forth in Md. Code HG § 17-214(e) which permits the employee to request independent testing of the same sample for verification of the test result.

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1006.7.4 DISCLOSURE OF INFORMATION

Information that may not be disclosed to the Agency includes (Md. Code HG § 17-214(i)(1)):

- (a) The use of a nonprescription drug, excluding alcohol, that is not prohibited under state law.
- (b) The use of a medically prescribed drug, unless the employee being tested is unable to establish that the drug was medically prescribed for the employee in accordance with state law.

The prohibitions against disclosure of information do not apply to the extent that they prevent a person from complying with the applicable provisions of the federal Commercial Motor Vehicle Safety Act of 1986 and the federal Motor Carrier Safety Regulations (Md. Code HG § 17-214(i)(2)).

The results of a mandatory test are not admissible or discoverable in a criminal proceeding against an agent (Md. Code PS § 3-107).

1006.7.5 TRAINING

The Agency shall establish a program to train individuals to collect specimens and perform CDS tests in the workplace in accordance with the provisions of Md. Code HG § 17-214(k).

The responsibilities of this agency shall include:

- (a) Keeping a record of the training received by each trainee.
- (b) Establishing a procedure to ensure that each trainee receives the minimum training required to properly perform and demonstrate competency in performing the test.
- (c) Maintaining documentation that indicates the trainee has been trained in accordance with state law.

1006.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Agency will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

1006.9 CONFIDENTIALITY

The Agency recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the employee's medical file in accordance with the Personnel Records Policy.

Sick Leave

1007.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees is detailed in the State personnel manual or applicable collective bargaining agreement or memorandum of understanding.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.) or the Maryland Flexible Leave Act (Md. Code LE § 3-802).

1007.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to provide eligible employees with a sick leave benefit.

1007.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences.

Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational or other activity that may impede recovery from the injury or illness (see the Secondary Employment Policy).

1007.3.1 NOTIFICATION

All members should notify their supervisor as soon as they are aware that they will not be able to report to work before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor.

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Agency reasonable notice of the impending absence.

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

1007.4 EXTENDED ABSENCE

Members absent from duty for more than five consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members requesting extended absence shall, if possible, contact Human Resources for additional options.

Sick Leave

1007.5 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with Human Resources as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
 - 1. Negatively affected the member's performance or ability to complete assigned duties.
 - 2. Negatively affected agency operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

Communicable Diseases

1008.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of agency members contracting and/or spreading communicable diseases.

1008.1.1 DEFINITIONS

Definitions related to this policy include:

Communicable disease - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, or tissue, or by breathing or coughing. These diseases commonly include but are not limited to hepatitis B virus (HBV), HIV, and tuberculosis.

Exposure - When an eye, mouth, mucous membrane, or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing, or coughing (i.e., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Maryland Alcohol, Tobacco, and Cannabis Commission. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1008.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

1008.3 EXPOSURE CONTROL OFFICER

The Executive Director will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

- (a) Exposure prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that agency members will have no-cost access to the personal protective equipment (PPE) (e. g., gloves, face masks, eye protection, pocket masks) that is appropriate for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them.
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
 - 1. Communicable disease prevention (Md. Code HG § 18-102).

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2. Responding to a notification that an agent has been exposed to a contagious disease or virus (Md. Code HG § 18-213; Md. Code HG § 18-213.2; COMAR 10.35.01.17).
3. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
4. HIV testing ordered by an infectious disease/communicable disease officer of a hospital (Md. Code HG § 18-338.3; COMAR 10.18.08.12).
5. Bloodborne pathogen standards in 29 CFR 1910.1030 (Md. Code LE § 5-308.1).
6. Providing protection and testing during a catastrophic health emergency as required by the Maryland Essential Workers' Protection Act (Md. Code LE § 3-1601 et seq.).

The ECO should also act as the liaison with Maryland Occupational Safety and Health (MOSH) and may request voluntary compliance inspections. The ECO should periodically review and update the exposure control plan and review implementation of the plan.

1008.4 EXPOSURE PREVENTION AND MITIGATION

1008.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes but is not limited to:

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks, and other specialized equipment in the work area or agency vehicle, as applicable.
- (b) Wearing agency-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes, and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing, portable radio) as soon as possible if the equipment is a potential source of exposure.
 1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.

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- (i) Avoiding eating, drinking, or smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1008.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost.

1008.5 POST EXPOSURE

1008.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practicable.

1008.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented:

- (a) Name of the member exposed
- (b) Date and time of incident
- (c) Location of incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., cleanup, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Work-Related Injury and Illness Reporting and Workplace Safety and Health policies).

1008.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Agency members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary. The ECO should request a written

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opinion/evaluation from the treating medical professional that contains only the following information:

- (a) Whether the member has been informed of the results of the evaluation.
- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

1008.5.4 COUNSELING

The Agency shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure.

1008.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate. Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Seeking testing through the procedures in the Md. Code HG § 18-338.3 and COMAR 10.18.08.12.
- (c) Seeking testing through the procedures in Md. Code CP § 11-107 et seq. and COMAR 10.52.10.01 et seq.

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the Assistant Attorney General to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

1008.6 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

1008.7 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training:

- (a) Should be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.

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- (b) Should be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

Smoking and Tobacco Use

1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Maryland Alcohol, Tobacco, and Cannabis Commission facilities or vehicles.

For the purpose of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device that is intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

1009.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission recognizes that tobacco use is a health risk and can be offensive to others. Smoking and tobacco use also presents an unprofessional image for the Agency and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all agency facilities, buildings and vehicles, and as further outlined in this policy (Md. Code HG § 24-504; COMAR 04.05.01.03F).

1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited any time members are in public view representing the Maryland Alcohol, Tobacco, and Cannabis Commission.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside State facilities and vehicles.

Personnel Complaints

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation, and disposition of complaints regarding the conduct of members of the Maryland Alcohol, Tobacco, and Cannabis Commission. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment, or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1010.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission takes seriously all complaints regarding the service provided by the Agency and the conduct of its members.

The Agency will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local laws; municipal and county rules; and the requirements of any collective bargaining agreement or memorandum of understanding.

It is also the policy of this agency to ensure that the community can report misconduct without concern for reprisal or retaliation.

1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of agency policy, or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate agency policy, federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Agency.

1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Division Director is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member, referred to Human Resources or an outside agency, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Division Director, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person, by telephone, or the ATCC website.
- (b) Any agency member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the agency website (Md. Code PS § 3-515). Forms may also be available at other State facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any agency member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1010.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries shall also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Agency should audit the log and send an audit report to the Executive Director or the authorized designee.

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1010.5.1 COMPLAINTS ALLEGING AGENT MISCONDUCT

A complaint that alleges a pattern, practice, or conduct by an agent that includes the deprivation of constitutional rights, a violation of criminal law, or a violation of agency standards or policy should include (Md. Code PS § 3-103):

- (a) The name of the agent or employee.
- (b) A description of the alleged facts leading to the complaint.
- (c) Contact information of the person making the complaint.
- (d) Any other information required by law.

1010.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Executive Director or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the supervisor of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Director or the Executive Director, who will initiate appropriate action.
- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made within 24 hours of the Agency receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Division Director.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Division Director and the Executive Director are notified via the chain of command as soon as practicable.

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- (e) Promptly contacting Human Resources and the Division Director for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Division Director, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three business days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses, and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of Human Resources, the following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, the employee shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Maryland Alcohol, Tobacco, and Cannabis Commission or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, the employee should be informed in writing of the nature of the investigation.
- (e) All interviews should be for a reasonable period, and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards, or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - (a) An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable

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steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

- (b) No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview may be provided to the employee prior to any subsequent interview.
- (i) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed without prior authorization of the Division Director.
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee should be compelled to submit to a polygraph examination, nor should any refusal to submit to such examination be mentioned in any investigation (Md. Code PS § 3-107).

1010.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints that are conducted by ATCC shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1010.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

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Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve agency members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1010.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

A complaint of agent misconduct (as defined in Md. Code PS § 3-101) made by a member of the public is subject to immediate review and completion within a sufficient amount of time so that any disposition by the appropriate administrative charging committee can be accomplished within the obligated statutory timeframe (Md. Code PS § 3-113).

1010.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1010.6.7 NOTICE RELATED TO AGENT MISCONDUCT

The crime victim liaison should serve as the agency's contact for the public in complaints related to agent misconduct covered by Md. Code PS § 3-101 et seq. and should (Md. Code PS § 3-108):

- (a) Explain to a complainant the various processes involved and any decisions made, including status updates through each stage.
- (b) Provide a complainant with an opportunity to review an agent's statement before completion of the agency's investigation, with any redactions of protected information that may be required by law.
- (c) Provide any other support required by law.

The Agency shall create and maintain a database that enables a complainant to enter their case number to follow the status of the case throughout each stage, and the crime victim liaison should make sure that a complainant is provided information with how to access this database (Md. Code PS § 3-108).

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1010.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1010.8 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Executive Director shall be notified as soon as practicable when a member is accused of criminal conduct. The Executive Director may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Executive Director may release information concerning the arrest or detention of any member, including an agent, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.9 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Agency, the Executive Director or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any agency badge, identification, assigned weapons, and any other agency equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift and will report as ordered.

1010.9.1 EMERGENCY SUSPENSION

For complaints against agents covered by Md. Code PS § 3-101 et seq., administrative leave may only be imposed as provided by Md. Code PS § 3-107, which addresses when pay and law enforcement authority may be suspended and which limits suspensions to considerations of the public's best interest and a period of 30 days if the suspension is without pay.

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1010.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Executive Director through the chain of command. Each level of command should review the report and include their comments in writing before forwarding the report. The Executive Director may accept or modify any classification or recommendation for disciplinary action.

[See attachment: MD Disciplinary Matrix.pdf](#)

1010.10.1 DIVISION DIRECTOR RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Director of the involved member shall review the entire investigative file, the member's personnel file, and any other relevant materials.

The Division Director may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Executive Director, the Division Director may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Executive Director, the Division Director shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1010.10.2 DIVISION DIRECTOR AND EXECUTIVE DIRECTOR RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Division Director and Executive Director shall review the recommendation and all accompanying materials. The Division Director and Executive Director may modify any recommendation and/or may return the file to the Division Director for further investigation or action.

Once the Division Director and Executive Director is satisfied that no further investigation or action is required by staff, the Division Director and Executive Director shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Division Director or Executive Director shall provide the member with a written notice and the following:

- (a) Access to all the materials considered by the Division Director and Executive Director in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Division Director and Executive Director within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the Division Director or Executive Director may grant a reasonable extension of time for the member to respond.
 - 2. If the member elects to respond orally, the presentation shall be recorded by the Agency. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed the member's response, or if the member has elected to waive any such response, the Division Director and Executive Director shall consider all information

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received in regard to the recommended discipline. The Division Director or Executive Director shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Division Director or Executive Director has issued a written decision, the discipline shall become effective. Discipline for agents shall be in compliance with the uniform state disciplinary matrix adopted by the Maryland Police Training and Standards Commission (MPTSC) (Md. Code PS § 3-105). Discipline for non-sworn members shall be in compliance with the Department of Budget and Management State Personnel Management System (SPMS).

1010.10.3 ADMINISTRATIVE CHARGING COMMITTEE

For complaints alleging a pattern, practice, or conduct by an agent that includes the deprivation of constitutional rights, a violation of criminal law, or a violation of agency standards or policy involving a member of the public, before the determination or imposition of any discipline, the Executive Director or the authorized designee should forward the investigatory files to the appropriate Administrative Charging Committee, with any redactions of protected information that may be required by law (Md. Code PS § 3-101; Md. Code PS § 3-104). All such submissions to the Administrative Charging Committee may include certain written recommendations from the Executive Director and should be made within the timeframe established by law (COMAR 12.04.09.06).

If the Administrative Charging Committee issues an administrative charge against an agent, within 15 days thereafter, the Division Director or Executive Director should offer that agent discipline that is consistent with the uniform state disciplinary matrix, but in no case less than the discipline recommended by the Administrative Charging Committee (Md. Code PS § 3-105).

1010.10.4 HEARING BY TRIAL BOARD

If an agent refuses the Division Director or Executive Director's offer of discipline following an administrative charging committee's charge, the matter should be referred to a trial board for a hearing as provided by Md. Code PS § 3-106 and any related regulations. The Division Director, Executive Director or the authorized designee should establish a trial board process consistent with state law that will govern these proceedings (Md. Code PS § 3-106). At least 30 days before any trial board proceeding begins, the agent should be (Md. Code PS § 3-105):

- (a) Provided with a copy of the investigatory record.
- (b) Notified of the charges against the agent.
- (c) Notified of the discipline being recommended.

Once the decision from the trial board is final, the Division Director or Executive Director should proceed to conclude the matter in accordance with its recommendations.

1010.10.5 NOTICE REQUIREMENTS

The Division Director, Executive Director or the authorized designee shall provide any notifications required by the uniform citizen complaint process developed by the MPTSC (Md. Code PS § 3-207).

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For complaints related to agent misconduct covered by Md. Code PS § 3-101 et seq., the Public Information Officer (PIO) should provide a case summary to the complainant within 30 days after the final disposition of the complaint, with any redactions of protected information that may be required by law (Md. Code PS § 3-108).

1010.10.5 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Division Director, Executive Director or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

1010.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

Employees not covered by Md. Code PS § 3-101 et seq. will be given a pre-discipline meeting with the Division Director or Executive Director.

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Division Director or Executive Director after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation be conducted or may offer any additional information or mitigating factors for the Division Director and Executive Director to consider.
- (d) In the event that the Division Director or Executive Director elects to conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Division Director or Executive Director on the limited issues of information raised in any subsequent materials.

1010.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

Notice that a licensed member separated shall be sent to the MPTSC within 30 days of member's change in employment status (COMAR 12.04.01.02).

1010.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by an employment agreement or other rules.

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In the event of punitive action against an agent under Md. Code PS § 3-101 et seq., the appeal process shall be as provided in Md. Code PS § 3-106.

1010.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members other than non-probationary employees or agents under Md. Code PS § 3-101 et seq. may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their name through a liberty interest hearing, which shall be limited to a single appearance before the Executive Director or the authorized designee.

Any probationary period may be extended at the discretion of the Executive Director in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

1010.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

Seat Belts

1011.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in agency vehicles.

Guidance for transporting persons in custody may be found in the Vehicle Use and Handcuffing and Restraints policies.

1011.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213 (Md. Code TR § 22-412.2).

1011.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle accident.

1011.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this agency while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including those who are not members of the Agency, are properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the agency member or the public. Members must be prepared to justify any deviation from this requirement.

1011.4 TRANSPORTING CHILDREN

Child passengers under 8 years old and under 4 feet 9 inches tall shall be transported using an approved child restraint system in compliance with Md. Code TR § 22-412.2(d).

Child passengers under 16 years old shall be transported in an approved child restraint system or with a seat belt in compliance with Md. Code TR § 22-412.2(e).

A child safety seat or seat belt may not be used to restrain, seat or position more than one individual at a time (Md. Code TR § 22-412.2(g)).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system

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manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible.

1011.5 INOPERABLE SEAT BELTS

Agency vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Agency vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Executive Director.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1011.6 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

1011.7 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

Body Armor

1012.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper issuance, use, care and maintenance of body armor.

1012.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to maximize officer safety through the use of body armor, in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1012.3 ISSUANCE

The Division Director shall ensure that body armor is issued to all agents and that, when issued, the body armor meets or exceeds the standards of the U.S. Department of Justice, National Institute of Justice.

Body armor shall be issued when an agent begins service at the Maryland Alcohol, Tobacco, and Cannabis Commission and shall be replaced when it becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1012.3.1 USE

Generally, the required use of body armor is subject to the following:

- (a) Members shall only wear agency-approved body armor.
- (b) Members may wear body armor any time they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Members may wear body armor when taking part in agency range training.
- (d) Members are not required to wear body armor when they are functioning primarily in an administrative or support capacity and would not reasonably be expected to take enforcement action.
- (e) Agents may be excused from wearing body armor when they are involved in undercover or plainclothes work that a supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.
 - 1. In those instances when body armor is not worn, agents should have reasonable access to their body armor.

1012.3.2 INSPECTION

Supervisors should ensure through routine observation and periodic inspections that body armor is worn and maintained in accordance with this policy.

1012.3.3 CARE AND MAINTENANCE

The required care and maintenance of body armor is subject to the following:

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- (a) Members are responsible for inspecting their body armor for signs of damage, wear and cleanliness at the start of each shift.
 - 1. Unserviceable body armor shall be reported to the supervisor.
- (b) Members are responsible for the proper storage of their body armor.
 - 1. Body armor should not be stored for an extended period of time in an area where environmental conditions (e.g., temperature, light, humidity) could potentially degrade its effectiveness.
- (c) Members are responsible for the care and cleaning of their body armor pursuant to the manufacturer's care instructions.
 - 1. Body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer.
 - 2. Failure to follow manufacturer's care instructions may damage the ballistic performance capabilities of the body armor. If care instructions for the body armor cannot be located, the manufacturer should be contacted to request the instructions.
- (d) Body armor should be replaced in accordance with the manufacturer's recommended replacement schedule, or when its effectiveness or functionality has been compromised.

1012.4 FIREARMS INSTRUCTOR RESPONSIBILITIES

The responsibilities of the Firearms Instructor include, but are not limited to:

- (a) Monitoring technological advances in the body armor industry for any appropriate changes to agency-approved body armor.
- (b) Assessing the current level of weapons and ammunition utilized by the public and the suitability of approved body armor to protect against those threats.
- (c) Educating agents about the safety benefits of wearing body armor.

Personnel Records

1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

Union negotiated agreements may supersede some aspects of this policy.

1013.2 POLICY

It is the policy of this agency to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of Maryland.

1013.3 AGENCY FILE

Human Resources shall maintain each employee's official personnel file, as a record of a person's employment/appointment with this agency. The agency file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational, and employment history or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
- (d) Performance evaluations should be permanently maintained.
- (e) Discipline records, including copies of sustained personnel complaints.
- (f) Adverse comments such as supervisor notes or memos may be retained in the agency file after the member has had the opportunity to read and initial the comment.
 - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment.
 - 2. Any member response shall be attached to and retained with the original adverse comment.
 - 3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file.
- (g) Commendations and awards.
- (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.
- (i) Only information required to accomplish a necessary governmental purpose shall be kept on a member (Md. Code GP § 4-102).

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1013.4 SUPERVISOR'S FILE

Supervisors files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Supervisor's file may contain supervisor comments, notes, notices to correct, and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

1013.5 TRAINING FILE

An individual training file shall be maintained by the Division Administrator for each member. Training files will contain records of all training, original or photocopies of available certificates, transcripts, diplomas and other documentation, education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Division Administrator or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Division Administrator or supervisor shall ensure that copies of such training records are placed in the member's training file.

1013.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Human Resources in conjunction with the office of the Executive Director. Access to these files may only be approved by the Executive Director or the Human Resources supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the member's agency file but will be maintained in the internal affairs file.

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

1013.7 MEDICAL FILE

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.

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- (e) Any other documents or material that reveals the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

1013.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures (Md. Code GP § 4-311).

Nothing in this policy is intended to preclude review of personnel records by the Governor, Assistant Attorney General or other attorneys or representatives of the State in connection with official business (Md. Code GP § 4-311).

1013.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure, which result in access to a member's personnel records, shall be logged in the corresponding file.

1013.8.2 RELEASE OF PERSONNEL INFORMATION

The Agency may not release personal information about a member unless allowed by law, regulation, or order (Md. Code GP § 4-311; Md. Code GP § 4-401; Md. Code GP § 4-351).

The Agency may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement.

1013.9 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files (Md. Code GP § 4-311).

Any member seeking the removal of any item from his/her personnel records shall file a written request to the Executive Director through the chain of command. The Agency shall remove any

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such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Agency shall be retained with the contested item in the member's corresponding personnel record.

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Agency for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for agency planning purposes.
- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Agency and the member that may be discovered in a judicial proceeding.

1013.10 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule (Md. Code SG § 10-615).

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development.

1013.10.1 RECORDS RELATED TO AGENT MISCONDUCT

A record relating to an administrative or criminal investigation of misconduct by an agent, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, may not be expunged or destroyed (Md. Code PS § 3-112).

Request for Change of Assignment

1014.1 PURPOSE AND SCOPE

This policy establishes guidelines for agency members to request a change of assignment.

1014.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission that all requests for change of assignment be considered in an equitable and nondiscriminatory manner.

1014.3 REQUEST FOR CHANGE OF ASSIGNMENT

Members requesting a change of assignment shall submit a request document through the chain of command to their Supervisor, Agent In Charge and Division Director.

The change of assignment request document provides members with the opportunity to list their qualifications for specific assignments. It should include:

- (a) The member's relevant experience, education and training.
- (b) All assignments in which the member is interested.

The document will remain in effect until the end of the calendar year in which it was submitted. Effective January 1 of each year, members still interested in a change of assignment should complete and submit a new request.

1014.4 RESPONSIBILITIES

1014.4.1 SUPERVISORS

Upon receipt of a change of assignment request document, the supervisor shall make appropriate comments in the space provided on the document and forward it to the Agent In Charge and Division Director.

1014.4.2 DIVISION DIRECTOR

The Division Director shall approve or deny requests for change of assignment following consultation with the affected supervisors and Agents in Charge.

Fitness for Duty

1015.1 PURPOSE AND SCOPE

Monitoring members' fitness for duty is essential for the safety and welfare of the members of the Agency and the community. The purpose of this policy is to ensure that all members of this agency remain fit for duty and able to perform their job functions.

1015.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission strives to provide a safe and productive work environment and ensure that all members of this agency can safely and effectively perform the essential functions of their jobs. Under limited circumstances, the Agency may require a professional evaluation of a member's physical and/or mental capabilities to determine his/her ability to perform essential functions.

1015.3 MEMBER RESPONSIBILITIES

It is the responsibility of each member of this agency to maintain physical stamina and psychological stability sufficient to safely and effectively perform the essential duties of his/her position.

During working hours, all members are required to be alert, attentive and capable of performing their assigned responsibilities.

Any member who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that a member believes that another agency member is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1015.4 SUPERVISOR RESPONSIBILITIES

All supervisors should be alert to any indication that a member may be unable to safely perform his/her duties due to an underlying physical or psychological impairment or condition.

Such indications may include:

- (a) An abrupt and negative change in the member's normal behavior.
- (b) A pattern of irrational conduct, hostility or oppositional behavior.
- (c) Personal expressions of instability.
- (d) Inappropriate use of alcohol or other substances, including prescribed medication.
- (e) A pattern of questionable judgment, impulsive behavior or the inability to manage emotions.
- (f) Any other factor or combination of factors causing a supervisor to believe the member may be suffering from an impairment or condition requiring intervention.

Supervisors shall maintain the confidentiality of any information consistent with this policy.

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1015.4.1 REPORTING

A supervisor observing a member, or receiving a report of a member who is perceived to be unable to safely or effectively perform his/her duties shall promptly document all objective information and/or observations.

The supervisor should attempt to meet with the member to inquire about the conduct or behavior giving rise to the concerns.

If a meeting does not resolve the supervisor's concerns or does not take place, the supervisor shall promptly document his/her observations and actions in a written report and inform the Agent In Charge or the member's Director.

1015.4.2 DUTY STATUS

In conjunction with the Agent In Charge or the member's Director, the supervisor should make a preliminary determination regarding the member's duty status.

If a determination is made that the member can safely and effectively perform the essential functions of his/her job, the member should be returned to duty and arrangements for appropriate follow-up made.

If a preliminary determination is made that the member's conduct or behavior represents an inability to safely and effectively perform the essential functions of his/her job, the Director should immediately relieve the member of duty pending further evaluation.

Employees relieved of duty shall comply with the administrative leave provisions of the Personnel Complaints Policy.

The Executive Director shall be promptly notified in the event that any member is relieved of duty.

1015.5 FITNESS-FOR-DUTY EVALUATIONS

A fitness-for-duty evaluation may be ordered whenever circumstances reasonably indicate that a member is unfit for duty or following an officer-involved shooting or death-in-custody incident.

1015.5.1 PROCESS

The Executive Director, in cooperation with Human Resources, may order the member to undergo a fitness-for-duty evaluation.

The examining practitioner will provide the Agency with a report indicating whether the member is fit for duty. If the member is not fit for duty, the practitioner will include the existing restrictions or conditions in the report.

In order to facilitate the evaluation of any member, the Agency will provide all appropriate documents and available information.

All reports and evaluations submitted by the examining practitioner shall be part of the member's confidential medical file.

Any member ordered to undergo a fitness-for-duty evaluation shall comply with the terms of the order and cooperate fully with the examining practitioner. Any failure to comply with such an order

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and any failure to cooperate with the practitioner may be deemed insubordination and shall subject the member to discipline, up to and including termination.

Determinations regarding duty status of members who are found to be unfit for duty or fit for duty with limitations will be made in cooperation with the Human Resources.

1015.5.2 EVALUATION REQUIRED

An agent involved in any incident where a person was seriously injured or killed as a result of a shooting or accident and any agent returning from combat deployment shall undergo a psychological consultation consistent with the standards developed by the Maryland Police Training and Standards Commission (MPTSC) (Md. Code PS § 3-207).

1016.5.3 EMPLOYEE ASSISTANCE PROGRAM (EAP)

A supervisor who believes that a subordinate is displaying conduct that may be symptomatic of emotional and/or behavioral problems has the option of recommending that the employee be referred to the Employee Assistance Program or the State Medical Director.

Referrals can be either voluntary by the employee or initiated through management for job-related issues. Participation is always confidential.

For further guidance see the DBM website at: dbm.maryland.gov/employees/pages/eap.aspx.

1015.6 LIMITATION ON HOURS WORKED

Absent emergency operations, members should not work more than:

- 16 hours in a one-day (24 hour) period.
- 30 hours in any two-day (48 hours) period.
- 84 hours in any seven-day (168 hours) period.

Except in unusual circumstances, members should have a minimum of eight hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve any member who has exceeded the above guidelines to off-duty status.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime, and any other work assignments.

1015.7 APPEALS

Employees disputing the application or interpretation of this policy may submit a grievance as provided in the Grievances Policy.

1015.8 MPTSC CERTIFICATION

Agents are required to submit to a physical agility assessment every year and a mental health assessment every two years in order to maintain their certification (Md. Code PS § 3-209).

Meal Periods

1016.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the availability of meal periods.

1016.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to provide meal periods to members of this agency in accordance with applicable memorandums of understanding and collective bargaining agreements and the State personnel manual.

1016.3 MEAL PERIODS

Agents shall remain subject to call during meal periods. All other members are not on-call during meal periods unless directed otherwise by a supervisor.

Agents shall take their meal periods and shall monitor their cell phone.

The time spent for the meal period shall not exceed the authorized time allowed.

Lactation Breaks

1017.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding reasonable accommodations for lactating members.

1017.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to provide, in compliance with federal law, reasonable accommodations for lactating members. This includes break time and appropriate facilities to accommodate any member desiring to express breast milk for the member's nursing child for up to one year after the child's birth (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3).

1017.3 LACTATION BREAK TIME

A rest period should be permitted each time the member requires a lactation break (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the member's regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid.

Members desiring to take a lactation break shall notify a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt agency operations.

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1017.4 PRIVATE LOCATION

The Agency will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view, free from intrusion from coworkers and the public, and otherwise satisfy the requirements of federal law (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at any public or private location in which the mother and child are authorized to be (Md. Code HG § 20-801).

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Lactation Breaks

1017.5 STORAGE OF EXPRESSED MILK

Any member storing expressed milk in any authorized refrigerated area within the Agency shall clearly label it as such and shall remove it when the member's shift ends.

Payroll Records

1018.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of agency members who are eligible for the payment of wages.

1018.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission maintains timely and accurate payroll records.

1018.3 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for subordinate employees.

1018.4 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a bi-weekly basis. Payroll records shall be completed and submitted as established by the State payroll procedures, and by using the state's timekeeping and payroll platform (Workday).

1018.5 WORKSHEET TIME AND ATTENDANCE COMPUTER PROGRAM

Employees must account for their time and attendance in accordance with the Workday computer program.

- (a) Employees must submit their time no later than 10:00 AM on the last Monday of the pay period.
- (b) Supervisors must approve employee time no later than 5:00 PM on the last Tuesday of the pay period.
- (c) Deadlines may be altered by Payroll due to holidays or other circumstances. Notification of such changes is made via state email. Employees will adhere to the altered submission and approval deadlines as directed in the email notification.
- (d) Contractual employees - without the timely submission and approval of a contractual employee's Workday times, the contractual employee may experience delays or inability to receive payment in a timely manner.

1018.6 RECORDS

The Finance, Administration, and Accountability Division Director shall ensure that accurate and timely payroll records are maintained in accordance with relevant state and federal laws.

Compensation

1019.1 PURPOSE AND SCOPE

This policy establishes guidelines and procedures regarding overtime for employees, in conformance with the Fair Labor Standards Act (FLSA) (29 USC § 201 et seq.).

1019.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will compensate nonexempt employees who work authorized overtime either by payment of wages or by the accrual of compensatory time (29 CFR 553.22). Employees who are salary exempt from FLSA are not compensated for overtime worked.

1019.3 COMPENSATION

Nonexempt civilian employees must be compensated for any hours worked over 40 during any scheduled workweek.

Agents through the rank of supervisor must be compensated for any hours worked over eight during any scheduled workday. (State Personnel & Pensions Article Section 8-303, 8-308 and 8-309)

Payment of wages to nonexempt employees for overtime, or accrual of compensatory time in lieu of compensation for overtime worked, shall be at the rate of not less than one and one-half hours for each hour of employment for which overtime compensation is required (29 USC § 207(k)(2); 29 USC § 207(o)(1)).

Non-exempt sworn personnel may accumulate a maximum of 480 compensatory hours.

Salary exempt employees shall earn compensatory time at a rate of one hour for each hour of overtime worked. Compensatory time earned by exempt employees shall be utilized within 12 months of earning or it will be forfeited.

1019.4 REQUESTS FOR OVERTIME COMPENSATION

1019.4.1 EMPLOYEE RESPONSIBILITIES

Generally, no employee is authorized to work overtime without the prior approval of a supervisor. If circumstances do not permit prior approval, approval shall be sought as soon as practicable during the overtime shift and in no case later than the end of the shift in which the overtime is worked.

Nonexempt employees shall:

- (a) Obtain supervisory approval, verbal or written.
- (b) Not work in excess of 16 hours, including regularly scheduled work time, overtime and extra-duty time, in any consecutive 24-hour time period without supervisory approval.
- (c) Record the actual time worked in an overtime status using the agency-approved form or method.

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1019.4.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall:

- (a) Prior to authorizing an employee to work overtime, evaluate the need for the overtime.
 1. Supervisors should not authorize any request to work overtime if the overtime would not be an appropriate use of agency resources.
- (b) Upon receipt of a request for overtime compensation, confirm that the overtime was authorized and then verify the actual time worked.
 1. Supervisors identifying any unauthorized overtime or discrepancy shall initiate an investigation consistent with the Personnel Complaints Policy.

1019.5 ACCOUNTING FOR PORTIONS OF AN HOUR

Authorized overtime work shall be accounted in the increments as listed:

<u>TIME WORKED</u>	<u>INDICATE ON CARD</u>
Up to 30 minutes	.50 hour
31 to 60 minutes	1 hour

1019.6 REQUESTING USE OF COMPENSATORY TIME

Employees who have accrued compensatory time shall be allowed to use that time for time off within a reasonable period after making a request, if the request does not unduly disrupt agency operations. Requests to use compensatory time will be submitted to the employee's supervisor at least 24 hours in advance of its intended use. Supervisors may make exceptions in unusual or extraordinary circumstances.

Compensatory time may not be used for time off for a date and time when the employee is required to appear in court on agency-related matters. Supervisors shall not unreasonably deny employee requests to use compensatory time (29 CFR 553.25).

1019.7 SHIFT DIFFERENTIAL

- (a) The State shall pay shift differential to designated employees who work a qualifying shift.
- (b) The State shall pay a separate shift differential to employees who work overtime from a qualifying shift into another qualifying shift, in addition to any overtime payment or compensatory time to which the employee may be entitled.
- (c) The State shall pay a separate shift differential to employees who work overtime from a non-qualifying shift into a qualifying shift, provided that the employees work at least 1/2 of the qualifying shift, in addition to any overtime payment or compensatory time to which the employee is entitled.
 1. The State may not pay shift differential to employees who are on paid leave.
 2. Shift differential shall be paid to designated law enforcement personnel in accordance with the Memorandum of Understanding between the Maryland

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Alcohol, Tobacco, and Cannabis Commission and the State Law Enforcement Officers' Labor Alliance (SLEOLA).

1019.8 CLOTHING ALLOWANCE

Clothing allowance shall be paid in accordance with the Memorandum of Understanding between the Maryland Alcohol, Tobacco, and Cannabis Commission and the State Law Enforcement Officers' Labor Alliance (SLEOLA).

1019.9 MEAL REIMBURSEMENT

Meal allowances for employees in travel status are reimbursable at the rates established by the Maryland Department of Budget and Management. Current meal reimbursements rates can be found on the Maryland Department of Budget and Management website.

1019.10 MILEAGE REIMBURSEMENT

- (a) An employee is eligible for reimbursement when personally owned vehicles are used for authorized State business.
- (b) A supervisor must authorize the use of a personal vehicle.
- (c) Reimbursement is only authorized when a State vehicle is not available for use.
- (d) The reimbursement rates are determined annually by the Maryland Department of Budget and Management.
- (e) State of Maryland Expense Account, must be completed to request reimbursement.

1019.11 ADVANCED COMPENSATION

In accordance with the Memorandum of Understanding between the Maryland Alcohol, Tobacco, and Cannabis Commission and the State Law Enforcement Officers' Labor Alliance (SLEOLA) the following are advanced compensation programs:

- (a) Each day a Field Training Officer (FTO) is assigned a trainee; they will earn an additional stipend per hour to compensate them for their extra duties and training program responsibilities.
- (b) Law enforcement officers shall be paid additional compensation based on the highest level of education they possess.
- (c) Law enforcement officers shall be paid additional compensation based on the successful completion of the Agency's physical fitness bonus program.

1019.12 COMPENSATION FOR FORMAL EDUCATION

Per the SLEOLA contract, members are eligible for additional compensation based on their level of formal education. A member must make the request, and initiate the process, to receive this compensation, which is not retroactive. The procedure is as follows: the member will arrange for the delivery of their official college transcript from an accredited college or university to Human Resources. An accredited college or university is one that is found in the US Department of Education Database of Accredited Postsecondary Institutions and Programs. Transcripts

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submitted during the application/background process do not fulfill this requirement. **The transcript must indicate that a degree was awarded.**

Upon approval from Human Resources, the annual compensation is as follows:

- (a) Associate's degree: \$250
- (b) Bachelor's Degree: \$500
- (c) Master's Degree: \$750
- (d) Doctorate: \$1000

Note: members who have earned more than one degree may only receive compensation for one degree.

This additional compensation will be payable in the first full pay period of December.

Requests for formal education compensation accompanied by no official college transcript, college transcripts that are unofficial, already opened, or those that do not state a degree was awarded, will be denied.

Secondary Employment

1020.1 PURPOSE AND SCOPE

This policy provides guidelines for agency members who seek to engage in authorized secondary employment.

1020.1.1 DEFINITIONS

Definitions related to this policy include:

Secondary employment - Duties or services performed by members of this agency for another employer, organization or individual who is not affiliated directly with this agency when wages, compensation or other consideration for such duties or services is received. Outside employment also includes duties or services performed by those members who are self-employed and receive compensation or other consideration for services, products or benefits rendered.

1020.2 POLICY

Members of the Maryland Alcohol, Tobacco, and Cannabis Commission shall obtain written approval from the Executive Director or the authorized designee prior to engaging in any secondary employment. Approval of secondary employment shall be at the discretion of the Executive Director in accordance with the provisions of this policy. Failure to obtain prior written approval for secondary employment, or engaging in secondary employment that is prohibited by this policy, may lead to disciplinary action.

1020.3 SECONDARY EMPLOYMENT

1020.3.1 REQUEST AND APPROVAL

Members must submit the designated secondary employment request form to their immediate supervisors. The request form will then be forwarded through the chain of command to the Executive Director for consideration.

If approved, the employee will be provided with a copy of the approved request form. Approval for secondary employment will remain in effect indefinitely unless:

- (a) The employee voluntarily terminates the secondary employment; or
- (b) The agency revokes or suspends approval based on one or more of the following reasons:
 - 1. The employee's performance fails to meet agency standards and the secondary employment is determined to be related to the deficient performance. Approval may be reinstated when performance improves to a satisfactory level, subject to the supervisor's authorization.
 - 2. The employee's conduct or secondary employment is found to conflict with agency policy or any applicable law.
 - 3. The secondary employment creates an actual or apparent conflict of interest with the agency or the State of Maryland.

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1020.3.2 DENIAL

Any member whose request for outside employment has been denied should be provided with a written notification of the reason at the time of the denial.

1020.3.3 REVOCATION OR SUSPENSION

Any member whose approval for outside employment is revoked or suspended shall be provided with a written notification of the reason for revocation or suspension.

Approval for secondary employment may be revoked or suspended:

- (a) When a supervisor determines the member's performance is failing to meet standards and the secondary employment may be related to the deficient performance.
 - 1. Approval for the secondary employment may be reestablished when the member's performance has reached a satisfactory level and with his/her supervisor's authorization.
- (b) When a member's conduct or secondary employment conflicts with agency policy or any law.
- (c) When the secondary employment creates an actual or apparent conflict of interest with the Agency or State.

1020.3.4 APPEAL

If a member's request for secondary employment is denied or if previous approval is revoked or suspended, the member may file a written notice of appeal with the Executive Director within 10 days of receiving notice of the denial, revocation or suspension.

A revocation or suspension will only be implemented after the member has completed the appeal process.

If the member's appeal is denied, he/she may file a grievance as provided in the Grievances Policy.

1020.4 REQUIREMENTS

1020.4.1 PROHIBITED SECONDARY EMPLOYMENT

The Agency reserves the right to deny any request for secondary employment that involves:

- (a) The use of agency time, facilities, equipment or supplies. Agency vehicles may be used to commute to and from approved secondary employment locations that comply with Policy 703 of this manual.
- (b) The use of the Maryland Alcohol, Tobacco, and Cannabis Commission badge, uniform or influence for private gain or advantage.
- (c) The member's receipt or acceptance of any money or other consideration for the performance of duties or services that he/she would be required or expected to render in the course or hours of his/her employment, appointment or as a part of his/her regular duties.

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- (d) The performance of duties or services that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other member of this agency.
- (e) Demands upon the member's time that would render the performance of his/her duties for this agency deficient or substandard.
- (f) Activities that may conflict with any other policy or rule of the Agency.
- (g) Any entity that is (COMAR 19A.04.02.04):
 - 1. Subject to the authority of that member of the Agency.
 - 2. A contractor or subcontractor with this agency or that is negotiating a contract with the Agency.
- (h) Employment that would impair the impartiality and independent judgment of the member (COMAR 19A.04.02.04).
- (i) Employment prohibited by State local law enacted pursuant to COMAR 19A.04.01.03.

1020.4.2 AGENCY RESOURCES

Members are prohibited from using any agency equipment or resources in the course of, or for the benefit of, any secondary employment. This shall include the prohibition against any member using his/her position with this agency to gain access to official records or databases of this agency or other agencies.

1020.4.3 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If a member terminates his/her secondary employment, the member shall promptly submit written notification of such termination to the Executive Director through the chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through the procedures set forth in this policy.

Members shall also promptly submit in writing to the Executive Director any material changes in secondary employment, including any change in the number of hours, type of duties or the demands of any approved secondary employment. Members who are uncertain whether a change in outside employment is material are advised to report the change.

1020.4.4 LEAVE OR RESTRICTED DUTY STATUS

Members who are placed on leave or other restricted duty status shall inform their immediate supervisors in writing within five days as to whether they intend to continue their secondary employment while on such leave or restricted status. The immediate supervisor shall review the duties of the secondary employment, along with any related orders (e.g., administrative, medical), and make a recommendation to the Executive Director regarding whether such employment should continue.

In the event that the Executive Director determines that the secondary employment should be discontinued, or if the member fails to promptly notify his/her supervisor of his/her intention

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regarding secondary employment, a notice revoking approval of the secondary employment will be forwarded to the member and a copy attached to the original secondary employment request form.

Criteria for revoking approval due to leave or restricted duty status include but are not limited to:

- (a) The secondary employment is medically detrimental to the total recovery of the disabled member, as indicated by the State's medical professional advisers.
- (b) The secondary employment requires performance of the same or similar physical ability, as would be required of an on-duty member.
- (c) The member's failure to make timely notice of his/her intention to the supervisor.

When the member returns to full duty with the Maryland Alcohol, Tobacco, and Cannabis Commission, a written request may be submitted to the Executive Director to approve the secondary employment request.

Work-Related Injury and Illness Reporting

1021.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding timely reporting of work-related injuries and occupational illnesses.

1021.1.1 DEFINITIONS

Definitions in this policy include:

Work-related injury or illness - Accidental personal injury or illness arising out of and in the course of employment (Md. Code LE § 9-101).

1021.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission will address work-related injuries and occupational illnesses appropriately, and will comply with applicable state workers' compensation requirements (Md. Code LE § 9-101 et seq.).

1021.3 RESPONSIBILITIES

1021.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any work-related injury or occupational illness shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate.

1021.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any work-related injury or occupational illness should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly (Md. Code LE § 9-707). Any related State-wide injury- or illness-reporting protocol shall also be followed.

Supervisors shall forward all paperwork to Human Resources

Personal Appearance Standards

1022.1 PURPOSE AND SCOPE

This policy provides guidelines for the personal appearance of members of the Maryland Alcohol, Tobacco, and Cannabis Commission.

Requirements for agency uniforms and civilian attire are addressed in the Uniforms and Civilian Attire Policy.

1022.2 POLICY

Maryland Alcohol, Tobacco, and Cannabis Commission members shall maintain their personal hygiene and appearance to project a professional image that is appropriate for this agency and for their assignments. Agency personal appearance standards are primarily based on safety requirements, appearance conformity, and the social norms of the community served, while considering matters important to members of the Agency.

1022.3 GROOMING

Unless otherwise stated and because deviations from these standards may present officer safety issues, the following appearance standards shall apply to all members, except those whose current assignments would deem them not applicable, and where the Executive Director has granted an exception.

1022.3.1 PERSONAL HYGIENE

All members must maintain proper personal hygiene. Examples of improper personal hygiene include, but are not limited to, dirty fingernails, bad breath, body odor and dirty or unkempt hair. Any member who has a condition due to a protected category (e.g., race, physical disability) that affects any aspect of personal hygiene covered by this policy may qualify for an accommodation and should report any need for an accommodation to the Executive Director.

1022.3.2 HAIR

Hair shall be clean, neatly trimmed or arranged, and of a natural hair color. Hairstyles with shaved designs in the scalp are prohibited. Hair adornments shall be primarily for the purpose of securing the hair and must present a professional image.

Hairstyles, including the use of wigs, hair units, and extensions, must present a clean, neat, and professional appearance consistent with a business setting, without interfering with the performance of duties or the proper fit of safety equipment.

1022.3.3 FINGERNAILS

Fingernails shall be clean and neatly trimmed to a length that will not present a safety concern. The color of fingernail polish shall present a professional image.

1022.4 APPEARANCE

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1022.4.1 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the agency member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

1022.4.2 TATTOOS

At no time while the member is on-duty or representing the Agency in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material. No Tattoos above the neck, including scalp, are permitted.

At the discretion of the Executive Director, exceptions to the tattoo policy may be granted on a case-by-case basis.

1022.4.3 BODY PIERCING OR ALTERATION

Body alterations to any area of the body that is visible while on-duty or while representing the Maryland Alcohol, Tobacco, and Cannabis Commission in any official capacity, that is a deviation from normal anatomical features, and that is not medically required, is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement (i.e., foreign objects inserted under the skin to create a design or pattern).
- (c) Abnormal shaping of the ears, eyes, nose, or teeth (i.e., enlarged or stretched-out holes in the earlobes).
- (d) Branding, scarification, or burning to create a design or pattern.

Permitted Jewelry and Piercing:

- (a) Common forms of jewelry such as earrings, rings, necklaces, bracelets, and watches are permitted.
- (b) Facial piercings (e.g., nose, eyebrow, lip) and other visible body piercings are allowed, provided they are modest and not excessive in size or number.
- (c) Stretchers, gauges, and dermal piercings are acceptable as long as they are clean, appropriately sized, and not distracting.

Safety Considerations:

For roles involving manual labor, office machinery or law enforcement activity, (arrests, physical altercations, physical labor, etc.)

- (a) Jewelry and piercings must not pose a safety risk to the employee or others.
- (b) In such cases, employees may be required to remove or cover jewelry and piercings during work hours.

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- (c) Accommodations will be made where possible without compromising safety standards.

Prohibited Items:

- (a) Jewelry or piercings that display offensive, graphic, or discriminatory messages are not allowed.
- (b) Items that could be interpreted as promoting violence, hate speech, or harassment are strictly prohibited.
- (c) Jewelry and piercings should be clean, safe, and must not interfere with job responsibilities or workplace safety.

1022.4.4 DENTAL ORNAMENTATION

Dental ornamentation that is for decorative purposes and that is not medically required is prohibited while on-duty or while representing the Maryland Alcohol, Tobacco, and Cannabis Commission in any official capacity. Such ornamentation includes, but is not limited to:

- (a) Objects that are bonded to front teeth.
- (b) Gold, platinum or other veneers or caps used for decorative purposes.
- (c) Orthodontic appliances that are colored for decorative purposes.

1022.4.5 GLASSES AND CONTACT LENSES

Eyeglasses and sunglasses shall be conservative and present a professional image. Contact lenses with designs that change the normal appearance of the eye and that are not medically required are prohibited while on-duty or while representing the Maryland Alcohol, Tobacco, and Cannabis Commission in any official capacity.

1022.4.6 COSMETICS AND FRAGRANCES

Cosmetics shall be conservative and present a professional image. Use of cologne, perfume, aftershave lotion and other items used for body fragrance shall be kept to a minimum.

Bright colors and exaggerated cosmetic styles are prohibited.

1022.5 RELIGIOUS ACCOMMODATION

The religious beliefs and needs of agency members should be reasonably accommodated. Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The Executive Director should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings, or certain hairstyles or facial hair for religious reasons should generally be accommodated absent unusual circumstances.

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1022.6 EXEMPTIONS

Members who seek cultural (e.g., traits associated with race such as hair texture, afro hairstyles, protective hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Md. Code SG § 20-101). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Executive Director should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a security or safety risk.

1022.7 FINAL AUTHORITY

The Executive Director retains final authority to determine whether any personal appearance standard in question falls within the guidelines of this policy.

Civilian Attire

1023.1 PURPOSE AND SCOPE

This policy provides guidelines for Maryland Alcohol, Tobacco, and Cannabis Commission civilian attire regulations. It is established to ensure the appearance of members reflects favorably on the Agency.

This policy addresses the requirements for members who wear civilian attire; and the authorized use of optional equipment and accessories by members of the Agency.

The purpose of this policy is to promote a professional image throughout the agency. Proper dress, grooming, and personal cleanliness contribute to the morale of all employees and affect the business and institutional image that it presents to stakeholders and the public. Maintaining a professional, business-like appearance is important to the success of the agency.

Other related topics are addressed in the Badges, Patches and Identification, Agency-Owned and Personal Property, and Personal Appearance Standards policies.

1023.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission may provide agency branded apparel for all employees who are authorized to wear them in the manner, quantity and frequency agreed upon by the agency.

1023.3 CIVILIAN ATTIRE

The Maryland Alcohol, Tobacco, and Cannabis Commission is not a uniformed law enforcement agency. Members of the Agency conform in attire suited for their role.

- (a) Civilian attire shall fit properly, be clean and free of stains, and not damaged or excessively worn.
- (b) Members assigned to administrative, investigative and support positions shall wear business-appropriate clothing that is conservative in style.
- (c) Variations from this policy are allowed at the discretion of the Executive Director or the authorized designee when the member's assignment or current task is not conducive to wearing such clothing.
- (d) No item of civilian attire may be worn while on-duty that would adversely affect the reputation of the Maryland Alcohol, Tobacco, and Cannabis Commission or the morale of the members
- (e) Acceptable business casual attire for the office include, but is not limited to slacks, khakis, capris, golf shirts, skirts, dresses, or sweaters. Clothing and shoes must be neat and clean.
- (f) Unacceptable attire includes, but is not limited to clothing with holes and flip-flops
- (g) From time to time employees should consider and could be asked to wear more professional business attire for events where employees are required to represent

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the agency such as external training, hearings, interviews, or functions in Annapolis (Some examples of professional attire are suits, jackets, collared shirt with a tie)

- (h) When working in hazardous conditions (lifting heavy objects, etc.) wear proper clothing and shoes to maximize safety

1023.4 OPTIONAL EQUIPMENT

Any items that are allowed by the Maryland Alcohol, Tobacco, and Cannabis Commission but that have been identified as optional shall be purchased entirely at the expense of the member. No part of the purchase cost shall be offset by the Agency

Maintenance of optional items shall be the financial responsibility of the purchasing member (e.g., repairs due to normal wear and tear).

Replacement of items listed in this policy as optional shall be managed as follows:

- (a) When the item is no longer functional because of normal wear and tear, the member bears the full cost of replacement.
- (b) When the item is no longer functional because of damage in the course of the member's duties, it shall be replaced in accordance with the Agency-Owned and Personal Property Policy.

1023.5 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Maryland Alcohol, Tobacco, and Cannabis Commission members may not wear any uniform item, accessory or attachment unless specifically authorized by the Executive Director or the authorized designee.

Agency members may not use or carry any safety item, tool or other piece of equipment unless specifically authorized by the Executive Director or the authorized designee.

1023.6 FINAL AUTHORITY

The Executive Director retains final authority to determine whether any civilian attire standard in question falls within the guidelines of this policy.

Conflict of Interest

1024.1 PURPOSE AND SCOPE

The purpose of this policy is to assist members in recognizing and avoiding potential conflicts of interest, thereby ensuring effective and ethical operating practices on the part of the Maryland Alcohol, Tobacco, and Cannabis Commission.

1024.1.1 DEFINITIONS

Definitions related to this policy include:

Conflict of interest - Any actual, perceived or potential conflict, in which it reasonably appears that a member's action, inaction or decisions are or may be influenced by a personal or business relationship.

1024.2 POLICY

Members of the Maryland Alcohol, Tobacco, and Cannabis Commission are expected to conduct themselves with the utmost professional integrity and objectivity. Members will guard against actual or perceived conflicts of interest in order to ensure the fair and equitable treatment of agency members and the public, and thereby maintain the trust of the public and agency members.

1024.3 PROHIBITIONS

The Agency prohibits the following types of personal or business relationships among members:

- (a) Members are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other member who is a relative or with whom they are involved in a personal or business relationship.
 - 1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved member to an uninvolved supervisor.
 - 2. When personnel and circumstances permit, the Agency will attempt to make every reasonable effort to avoid placing members in such supervisor/subordinate situations. The Agency, however, reserves the right to transfer or reassign any member to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Members are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting a member who is a relative or with whom they are involved in a personal or business relationship.
- (c) Whenever possible, field training officers (FTOs) and other trainers will not be assigned to train relatives. Agency FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any member they are assigned to train until such time as the training has been successfully completed and the person is off probation.

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1024.3.1 ADDITIONAL PROHIBITIONS

The Agency prohibits members from (COMAR 19A.04.02.04):

- (a) Participating in a State matter that would have a direct economic impact, distinct from the impact on the public at large, on the member or that, to the knowledge of the member, would have a direct economic impact on any of the following:
 - 1. A spouse, parent, sibling or child of member.
 - 2. A business entity with which the member or member's spouse, parent, sibling or child is affiliated.
- (b) Having a financial interest in an entity that:
 - 1. Is subject to the authority of the member.
 - 2. Is negotiating or has entered a contract with or is a subcontractor on a contract with the Maryland Alcohol, Tobacco, and Cannabis Commission.
- (c) Soliciting or receiving gifts.
- (d) Any other conflict of interest or financial interest identified by State law enacted pursuant to COMAR 19A.04.01.03.

These prohibitions do not apply if the member is granted an exemption pursuant to the provisions of State local law enacted pursuant to COMAR 19A.04.01.03.

1024.4 MEMBER RESPONSIBILITIES

Members shall avoid situations that create a conflict of interest. Members should take reasonable steps to address a perception of a conflict of interest when such a perception is reasonably foreseeable and avoidable (e.g., deferring a decision to an uninvolved member).

Whenever any member is placed in circumstances that would require him/her to take enforcement action or to provide official information or services to any relative or individual with whom the member is involved in a personal or business relationship, that member shall promptly notify his/her uninvolved, immediate supervisor.

1024.5 SUPERVISOR RESPONSIBILITIES

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Executive Director or the authorized designee of such actual or potential violations through the chain of command.

Badges, Patches and Identification

1025.1 PURPOSE AND SCOPE

The Maryland Alcohol, Tobacco, and Cannabis Commission (ATCC) badge, patch and identification card, as well as the likeness of these items and the name of the Agency, are property of the Agency. Their use shall be restricted as set forth in this policy.

1025.2 POLICY

Members of the Agency will use the ATCC badge, patch and identification card, as well as the likeness of these items, appropriately and professionally.

1025.3 UNAUTHORIZED USE

The ATCC badge, patch and identification card shall not be displayed or used by any member except when acting in an official or authorized capacity.

Agency members shall not:

- (a) Display or use the ATCC badge, patch or identification card for personal gain or benefit.
- (b) Loan the ATCC badge, patch or identification card to others and shall not permit these items to be reproduced or duplicated.

1025.3.1 LOST BADGE, PATCH OR IDENTIFICATION CARD

Agency members shall promptly notify their supervisors whenever their ATCC badges, patches, or identification cards are lost, damaged or are otherwise removed from their control.

1025.4 BADGES

The Executive Director shall determine the form of badges authorized for use by agency members. No other badges may be used, carried, worn or displayed.

Only badges issued by this agency are authorized to be used, displayed, carried or worn by members while on-duty or otherwise acting in an official or authorized capacity.

Members, with the written approval of the Executive Director, may purchase at their own expense a second badge.

1025.4.1 RETIREE BADGES

The Executive Director may establish rules for allowing honorably retired members to keep their badges in some form upon retirement.

1025.5 IDENTIFICATION CARDS

All members will be issued an official ATCC identification card bearing the member's name, full-face photograph, and the signature of the Executive Director or the official seal of the Agency. All members shall be in possession of their agency-issued identification cards at all times while on-duty or in agency facilities.

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- (a) Whenever on-duty or acting in an official capacity representing the Agency, members shall display their agency-issued identification cards in a courteous manner to any person upon request and as soon as practicable.
- (b) Agents or other members working specialized assignments may be excused from the possession and display requirements when directed by their Directors.

1025.6 BUSINESS CARDS

The Agency will supply business cards to those members whose assignments involve frequent interaction with the public or who may require the use of a business card. The only authorized business cards are those issued or approved by the Agency and should contain identifying information including, but not limited to, the member's name, division, and contact information (e.g., telephone number, email address).

Members should provide a business card upon request.

Temporary Modified-Duty Assignments

1026.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, State rules, or current collective bargaining agreements or memorandums of understanding. For example, nothing in this policy affects the obligation of the Agency to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability or limitation that is protected under federal or state law.

1026.2 POLICY

Subject to operational considerations, the Maryland Alcohol, Tobacco, and Cannabis Commission may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Agency with a productive employee during the temporary period.

1026.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Maryland Disability Code (Md. Code SG § 20-601 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Maryland Alcohol, Tobacco, and Cannabis Commission shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Agency. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Executive Director or the authorized designee may restrict employees working in temporary modified-duty assignments from displaying a badge, carrying a firearm, operating an emergency vehicle, or engaging in outside employment, or may otherwise limit them in employing their peace officer powers. No member will be placed in modified duty assignment without coordination between the Executive Director or the authorized designee and a physician.

1026.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

Employees seeking a temporary modified-duty assignment should submit a written request to their Directors or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

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- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids, or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Director will make a recommendation through the chain of command to the Executive Director regarding temporary modified-duty assignments that may be available based on the needs of the Agency and the limitations of the employee. The Executive Director or the authorized designee shall confer with Human Resources or the Assistant Attorney General as appropriate.

1026.5 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate agency operations and the employee's medical appointments, as mutually agreed upon with the Director.

1026.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Director that contains a status update and anticipated date of return to full duty when a temporary modified-duty assignment extends beyond 60 days.

1026.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified-duty.

The responsibilities of supervisors shall include but not be limited to:

- (a) Periodically apprising the Director of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Director and ensuring that the required documentation facilitating a return to full duty is received from the employee.

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- (c) Ensuring that employees returning to full duty have completed any required training and certification.

1026.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Agency may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

1026.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

If notified by an employee or the employee's representative regarding limitations related to pregnancy, childbirth, or related medical conditions, the Agency should make reasonable efforts to provide an accommodation for the employee in accordance with federal and state law. The accommodation should be provided without unnecessary delay, as appropriate (42 USC § 2000gg-1; 29 CFR 1636.3; 29 CFR 1636.4; Md. Code SG § 20-609).

1026.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the State's personnel rules and regulations regarding family and medical care leave.

1026.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment may have their probation extended by a period of time equal to their assignment to temporary modified-duty.

1026.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified-duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified-duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Speech, Expression, and Social Networking

1027.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with the use of social networking sites, and provides guidelines for the regulation and balancing of member speech and expression with the needs of the Maryland Alcohol, Tobacco, and Cannabis Commission.

This policy applies to all forms of communication including but not limited to digital media, print media, public or private speech, and use of all internet services, including the web, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, and other file-sharing sites.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech, or expression that is protected under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit a member from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or an employee group, about matters of public concern, such as misconduct or corruption.

Members are encouraged to consult with their supervisors regarding any questions arising from the application or potential application of this policy.

1027.2 POLICY

Members of public entities occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of the Maryland Alcohol, Tobacco, and Cannabis Commission. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that members of this agency be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Agency will carefully balance the individual member's rights against the needs and interests of the Agency when exercising a reasonable degree of control over its members' speech and expression.

1027.3 SAFETY

Members should carefully consider the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of Maryland Alcohol, Tobacco, and Cannabis Commission members, such as posting personal information in a public forum or posting a photograph taken with a Global Positioning System (GPS)-enabled camera, can result in compromising a member's home address or family ties. Members should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any member, a member's family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an agent who is working undercover.

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- Disclosing the address of a fellow agency member.
- Otherwise disclosing where another agent can be located off-duty.

1027.4 PROHIBITED SPEECH, EXPRESSION, AND CONDUCT

To meet the safety, performance, and public-trust needs of the Maryland Alcohol, Tobacco, and Cannabis Commission, the following are prohibited unless the speech is otherwise protected (e.g., a member speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or an employee group, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation, or professionalism of the Agency or its members.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Agency and tends to compromise or damage the mission, function, reputation, or professionalism of the Agency or its members. Examples may include:
 1. Statements that indicate disregard for the law or the state or U.S. Constitutions.
 2. Expression that demonstrates support for criminal activity.
 3. Participation in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the member as a witness. For example, posting to a website statements or expressions that glorify or endorse dishonesty, unlawful discrimination, or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the members of the Agency (e.g., a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing members by informing criminals of details that could facilitate an escape or attempted escape).
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Agency.
- (f) Use or disclosure, through whatever means, of any information, photograph, digital media, or other recording obtained or accessible as a result of employment or appointment with the Agency for financial or personal gain, or any disclosure of such materials without the express authorization of the Executive Director or the authorized designee.
- (g) Posting, transmitting, or disseminating any photographs, digital media or audio recordings, likenesses or images of agency logos, emblems, uniforms, badges, patches, marked vehicles, equipment, or other material that specifically identifies the Maryland Alcohol, Tobacco, and Cannabis Commission on any personal or social networking or other website or web page, without the express authorization of the Executive Director.

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Members must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1027.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While members are not restricted from engaging in the following activities as private citizens or as authorized members of recognized bargaining units or employee groups, members may not represent the Maryland Alcohol, Tobacco, and Cannabis Commission or identify themselves in any way that could be reasonably perceived as representing the Agency in order to do any of the following, unless specifically authorized by the Executive Director (Md. Code LG § 1-303; Md. Code LG § 1-304; Md. Code PS § 3-110; Md. Code SP § 2-304):

- (a) Endorse, support, oppose, or contradict any political campaign, political candidate, or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose any product, service, company, or other commercial entity.
- (d) Appear in any commercial, social, or nonprofit publication; or any motion picture, film, video, or public broadcast; or on any website.

Additionally, when it can reasonably be construed that a member, acting in their individual capacity or through an outside group or organization, including as an authorized member of a recognized bargaining unit or an employee group, is affiliated with this agency, the member shall give a specific disclaiming statement that any such speech or expression is not representative of the Maryland Alcohol, Tobacco, and Cannabis Commission.

Members retain their rights to vote as they choose, to support candidates of their choice, and to express their opinions as private citizens, including as authorized members of recognized bargaining units or employee groups, on political subjects and candidates at all times while off-duty. However, members may not use their official authority or influence to interfere with or affect the result of elections or nominations for office. Members are also prohibited from directly or indirectly using their official authority to coerce, command, or advise another member to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes (5 USC § 1502).

1027.5 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published or maintained through file-sharing software or any internet site, including social media, that is accessed, transmitted, received, or reviewed on any agency technology system (see the Information Technology Use Policy for additional guidance).

The Agency may not request or require that a member disclose any username, password, or other means for accessing a personal account or service through an electronic communications device (Md. Code LE § 3-712).

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1027.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Executive Director or the authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Agency or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Agency.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of their duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Agency.

Workplace Safety and Health

1028.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of injury and illness for members of the Maryland Alcohol, Tobacco, and Cannabis Commission, in accordance with the requirements of Md. Code LE § 5-101 et seq., Md. Code LE § 5-206, and COMAR 09.12.20.01 et seq.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces injury and illness, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related State-wide safety efforts.

1028.2 POLICY

The Maryland Alcohol, Tobacco, and Cannabis Commission is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Agency will establish and maintain an Illness and Injury Prevention program and will provide tools, training and safeguards designed to reduce the potential for accidents, injuries and illness. It is the intent of the Agency to comply with all laws and regulations related to occupational safety.

1028.3 SUPERVISOR RESPONSIBILITIES

Supervisor responsibilities include but are not limited to:

- (a) Ensuring member compliance with injury and illness prevention guidelines and answering questions from members about this policy.
- (b) Training, counseling, instructing, or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.
- (d) Completing required forms and reports relating to injury and illness prevention; such forms and reports shall be submitted to the Administrative Services Director.
- (e) Notifying the Administrative Services Director when:
 - 1. New substances, processes, procedures, or equipment that present potential new hazards are introduced into the work environment.
 - 2. New, previously unidentified hazards are recognized.
 - 3. Occupational injuries and illnesses occur.
 - 4. New and/or permanent or intermittent members are hired or reassigned to processes, operations, or tasks for which a hazard evaluation has not been previously conducted.

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5. Workplace conditions warrant an inspection.

1028.4 HAZARDS

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices, or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors) (Md. Code LE § 5-104(b)(2)).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be documented on a MOSH-approved reporting form available on the Maryland Department of Labor website. This form should be forwarded to the Division Administrator via the chain of command.

The Division Administrator will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

1028.5 INSPECTIONS

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment (Md. Code LE § 5-206). Safety inspections will be in coordination with the building management.

1028.5.1 EQUIPMENT

Members are charged with daily pre-patrol inspections of their assigned equipment (e.g., vehicles, PPE) prior to working in the field. Members shall notify their supervisor if they discover unsafe working conditions or equipment.

1028.6 INVESTIGATIONS

Any member sustaining any work-related injury or illness, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors (Md. Code LE § 5-206).

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.

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- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.
- (g) Completion of an investigation/corrective action report.
- (h) Completion of a hazards and correction record form.

Additionally the supervisor should proceed with the steps to report an on-duty injury, as required under the Work-Related Injury and Illness Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

1028.7 TRAINING

The Division Administrator or designee may provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided (Md. Code LE § 5-206):

- (a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.
- (b) To all members with respect to hazards specific to each member's job assignment.
- (c) To all members given new job assignments for which training has not previously been provided.
- (d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the Agency is made aware of a new or previously unrecognized hazard.

1028.7.1 TRAINING TOPICS

The Division Administrator shall ensure that training includes:

- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Availability of toilet, hand-washing and drinking-water facilities.
- (e) Provisions for medical services and first aid.
- (f) Handling of bloodborne pathogens and other biological hazards.
- (g) Prevention of heat and cold stress.

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- (h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (k) Back exercises/stretchers and proper lifting techniques.
- (l) Avoidance of slips and falls.
- (m) Good housekeeping and fire prevention.
- (n) Other job-specific safety concerns.
- (o) Agency and employee rights and responsibilities.
- (p) Emergency Action Plan and/or Fire Prevention Plan.
- (q) Workplace safety plan.

1028.8 RECORDS

Records and training documentation relating to injury and illness prevention will be maintained in accordance with the established records retention schedule.

Line-of-Duty Deaths

1029.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Maryland Alcohol, Tobacco, and Cannabis Commission in the event of the death of a member occurring in the line of duty and to direct the Agency in providing proper support for the member's survivors.

The Executive Director may also apply some or all of this policy for a non-line-of-duty member death, or in situations where members are injured in the line of duty and the injuries are life-threatening.

1029.1.1 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of an agent during the course of performing law enforcement-related functions while on- or off-duty, or a civilian member during the course of performing assigned duties.

For an agent, a line-of-duty death includes death that is the direct and proximate result of a personal injury sustained in the line of duty (34 USC § 10281).

Survivors - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin, or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

1029.2 POLICY

It is the policy of the Maryland Alcohol, Tobacco, and Cannabis Commission to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this agency to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

1029.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Agent In Charge, Field Enforcement Director and Executive Director.
 - 1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).
- (b) The Supervisor should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.

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- (c) If the member has been transported to the hospital, the Supervisor or the authorized designee should respond to the hospital.
- (d) The Executive Director or the authorized designee should assign members to handle survivor notifications.

1029.4 NOTIFYING SURVIVORS

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Executive Director or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Executive Director, Field Enforcement Director or the authorized designee should select at least two members to conduct notification of survivors, one of which may be a chaplain.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity, and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in agency vehicles. Notifying members shall inform the supervisor or designee at the hospital over a secure network that the survivors are on their way to the hospital. Notifying members should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities, and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends, or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting child care or other immediate needs.

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- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes, and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of a Survivor Support Organization.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivors' names and contact information, as well as the time and location of notification. This information should be forwarded to the Agency Liaison.
- (m) Inform the Executive Director or the authorized designee once survivor notifications have been made so that other Maryland Alcohol, Tobacco, and Cannabis Commission members may be apprised that survivor notifications are complete.

1029.4.1 OUT-OF-AREA NOTIFICATIONS

The Agency should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Agency should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the agency member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Agency may assist in making transportation arrangements for the member's survivors, but will not obligate the Agency to pay travel expenses without the authorization of the.

1029.5 NOTIFYING AGENCY MEMBERS

Supervisors or members designated by the Executive Director are responsible for notifying agency members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shifts. Members reporting for duty from their residences should be instructed to contact their supervisors as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Agency regarding the deceased member or the incident.

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1029.6 FINANCE COORDINATOR

The finance coordinator should work with the Superintendent and the Agency Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
 - 1. Paying survivors' travel costs if authorized.
 - 2. Transportation costs for the deceased.
 - 3. Funeral and memorial costs.
 - 4. Related funding or accounting questions and issues.
- (c) Assisting to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

1029.7 PUBLIC INFORMATION OFFICER

In the event of a line-of-duty death, the agency's PIO should be the agency's contact point for the media. As such, the PIO should coordinate with the Agency Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Instruct agency members to direct any media inquiries to the PIO.
- (c) Prepare necessary press releases.
 - 1. Coordinate with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
 - 2. Disseminate important public information, such as information on how the public can show support for the agency and deceased member's survivors.
- (d) Arrange for community and media briefings by the Executive Director or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's survivors with media inquiries.
 - 1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to agency members, other agencies, and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media have obtained identifying information for the deceased member prior to

Maryland Alcohol, Tobacco, and Cannabis Commission

Maryland Alcohol and Tobacco Commission Policy Manual

Line-of-Duty Deaths

survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should notify media when survivor notifications have been made.

1029.8 INVESTIGATION OF THE INCIDENT

The Executive Director should make necessary assignments to conduct thorough investigations of any line-of-duty death.

The Law Enforcement Agency within the jurisdiction and capable, will be contacted to work on any criminal investigation related to line-of-duty deaths. Partners, close friends, or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved agency members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

1029.9 NON-LINE-OF-DUTY DEATH

The Executive Director may authorize certain support services for the death of a member not occurring in the line of duty.

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Attachments

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ATCC Expense Account.pdf



STATE OF MARYLAND EXPENSE ACCOUNT
Use for reimbursements for January 1, 2025 to December 31, 2025
.70¢ per mile

Agency	Maryland Alcohol, Tobacco, and Cannabis	
Division	Field Enforcement Division	
Social Security #		
Employee Name		
Home Address		
City, State, Zip		

A/P USE ONLY	
PCA:	
OBJ:	\$
OBJ:	\$
OBJ:	\$

Assigned Office Location	Baltimore	Commute Miles (One-way mileage from Home to Work)	
	City Only	***DO NOT USE DECIMAL POINT***	

Please tape all receipts to a separate piece of paper in date order											
	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Day 8	Day 9	Day 10	Totals
Date (M/D/YY)											
Hotel											
Breakfast											
Lunch											
Dinner											
Telephone											
Fare (bus, taxi, train, etc)											
Parking											
Tolls											
Mileage * (See Below)											
Registration Fee											
U/C THC Buy											
U/C OTP Buy											
U/C Vape Buy											
U/C Alcohol Buy											
MVA U/C ID Fee											
Totals											

We scan all documentation and this also prevents receipts from getting lost in transit

Method of Travel:

Date	Case Number / Location (city or county) / Description of purchase

TERRITORY COVERED								
Date	Time		Start Location	City Only (DO NOT PUT ADDRESS)	End Location	Total Miles	Total Commute Miles	*Reimbursable Miles
	Start	End						
				Start & End Location is either HOME or WORK (except overnight travel)		***DO NOT USE DECIMAL POINT***		
							0	
							0	

SEE SAMPLE EXPENSE ACCOUNT FOR MORE INFORMATION	
TIME	
Start time is the time you leave your house or office End time is the time you arrive at your house or office	
TERRITORY COVERED	
If more than one city use a dash (-) to separate cities	
TOTAL COMMUTE MILES	
Start Location/End Location	Total Commute Miles
Work/Work	Zero (0)
Home/Work	One (1) one-way commute
Work/Home	One (1) one-way commute
Home/Home	Two (2) one-way commutes
If your start location is HOME and then you go to WORK, your starting location is WORK	

Employee Signature _____ Date _____

Approved by _____ Date _____

Maryland Alcohol, Tobacco, and Cannabis Commission

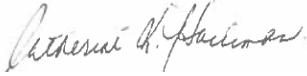
Maryland Alcohol and Tobacco Commission Policy Manual

Bullying in the Workplace Policy revised 10 01 2024.pdf

STATE OF MARYLAND POLICY

SUBJECT: Bullying in the Workplace

Effective: 1/1/2017
Revised (v.2): 10/1/2024



Catherine M. Hackman
Acting Chief HR Officer
Office of Personnel Services and Benefits

AUTHORITY

Annotated Code of Maryland, State Personnel and Pensions Article, Title 2, Section 2-302; Title 4, Section 4-106; Title 6, Section 6-102; and Title 11, Sections 11-104 and 11-105.

GENERAL STATEMENT OF INTENT

It is the intent of the State of Maryland to educate all employees about Bullying in the Workplace and to ensure that bullying is not tolerated. Where it is found to have occurred, it will be dealt with in an appropriate manner, which may include the imposition of disciplinary action, up to and including termination from State service.

DEFINITION

Workplace Bullying:

Intentional, persistent, malicious, unwelcome, severe or pervasive conduct that harms, intimidates, offends, degrades or humiliates an employee, whether verbal (including written or electronic) or physical, at the place of work or in the course of employment. Workplace bullying is behavior that a reasonable person would find to be hostile, offensive, and not related to an employer's legitimate business interests. Examples of workplace bullying include, but are not limited to:

- Personal attacks (angry outbursts, excessive profanity, or name-calling);
- Personal insults and use of offensive nicknames;
- Public humiliation;
- Encouragement of others to turn against the targeted employee;
- Spreading rumors and gossip about the targeted employee;

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SUBJECT: Bullying in the Workplace

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- Sabotage of a coworker's work product or undermining of an employee's work performance;
- Threats of abuse to an individual or an individual's property (defacing or marking up property);
- Being unjustifiably offensive toward fellow employees, wards of the State, or the public;
- Making threats about job security without foundation; or
- Repeated infliction of verbal abuse, such as the use of derogatory remarks, insults and epithets.

Bullying conduct does not include:

- A single incident of unreasonable behavior;
- Disciplinary action taken in accordance with applicable law, regulation or policy;
- Routine coaching and counseling, including feedback about and correction of work performance or conduct;
- Exercising management's prerogative to appoint, promote, transfer, or reassign an employee, to direct or assign work, and to determine and redetermine the methods and means by which an agency's functions will be carried out;
- Individual differences in styles of personal expression which may lead to conflict, provided that the expression is not meant to intimidate; and
- Having differences of opinion on work-related concerns.

MANAGEMENT RESPONSIBILITIES

It is the duty of every manager and supervisor to immediately report to the appointing authority any incident of workplace bullying that is witnessed by the manager or supervisor or brought to his/her attention by another employee.

TRAINING AND EDUCATION

Training is a significant factor in preventing and managing workplace bullying, particularly to enable early intervention in workplace conflict before it potentially escalates into bullying. Training protocols for both supervisors and employees shall include the

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SUBJECT: Bullying in the Workplace**Effective: 1/1/2017
Revised (v.2): 10/1/2024**

definition of workplace bullying, reporting and investigation procedures and available resources for those who have been affected by workplace bullying. All State of Maryland employees shall be required to take refresher Workplace Bullying training every two (2) years. Workers, including managers and supervisors, should be aware of their roles in relation to prevention and responses to workplace bullying and appropriate skills to take action where necessary.

MANAGER AND SUPERVISOR TRAINING

Managers and supervisors need the skills to be able to identify bullying behavior in the workplace and put the right control measures in place. They shall be trained in how to prevent and respond to workplace bullying, and in skills that will help develop productive and respectful workplace relationships, for example training that covers:

- Communicating effectively and engaging workers in decision-making;
- Managing difficult conversations and providing constructive feedback both formally and informally;
- Conflict management;
- Effectively managing workloads and performance; and
- Diversity and tolerance.

COMPLAINT PROCESS – EMPLOYEES NOT IN A PROTECTED STATUS

An employee who feels s/he has been a victim of bullying that is **not** because of the individual's age, ancestry, color, creed, gender identity and expression, genetic information, marital status, mental or physical disability, national origin, race, religious affiliation, belief or opinion, sex, sexual orientation or any other protected status, should file a complaint with their appointing authority or agency head/Secretary, as appropriate.

Upon receiving the complaint, the appointing authority or designee shall investigate the complaint in the following manner:

1. Meet with the complainant in a confidential setting to collect information that the complainant believes is pertinent to the charge of workplace bullying. If requested, the complainant shall have a right to representation. During this meeting, the individual charged with investigating the complaint should:

- Listen to the concerns being expressed by the complainant with an open mind;

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- Ask open-ended questions to solicit as much information as possible;
 - Ask whether there were any witnesses to the incidents being complained of;
 - Consider any documentary evidence the complainant may provide; and,
 - Explain the next steps to the complainant.
2. Meet with any witnesses to the incidents being complained of.
 3. Meet with the employee against whom the complaint was lodged and provide him/her with a summary of the allegations.

Results of Investigation

1. If the investigation results in a finding that bullying occurred, the appointing authority or agency head/Secretary, as appropriate, shall:
 - Consider any mitigating circumstances;
 - Determine the appropriate disciplinary action, if any, to be imposed; and
 - Give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.
2. The appointing authority or agency head/Secretary, as appropriate, must investigate and take appropriate disciplinary action, if any, within 30 days of gaining knowledge of the alleged bullying, except that if a suspension without pay is imposed the suspension must be imposed no later than 5 workdays following the close of the employee's next shift after the appointing authority acquires knowledge of the misconduct for which the suspension is imposed, in accordance with State Personnel and Pensions Article §11-106(c).
3. In addition to, or in lieu of, discipline, an appointing authority or head of the principal unit, as appropriate, may exercise management's prerogative to reassign an individual who has filed a complaint upon request of the complainant. Additionally, an appointing authority or head of the principal unit, as appropriate, may exercise management's prerogative to reassign the alleged bully; such reassignment is not a disciplinary action within the meaning of Title 11 of the State Personnel and Pensions Article.
4. An individual who has been found to have committed a violation of this Policy shall be required to participate in retraining relating to the requirements of this Policy and the prohibitions against bullying.

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5. If the behavior giving rise to the complaint does not rise to the level of workplace bullying, the individual investigating the matter should determine whether there are workplace issues that should be addressed and take appropriate action to do so.

6. Every step in the process should be documented.

7. No matter the outcome, the complainant should receive a written decision that addresses the complaint and outlines the steps that were taken to address the complaint. This decision should provide sufficient information to support the outcome.

8. Within twenty (20) days after receiving the written decision, an employee who filed the complaint and believes that the appointing authority misinterpreted or misapplied the Bullying in the Workplace policy to him/her, may file a grievance pursuant to Title 12 of the State Personnel and Pensions Article.

COMPLAINT PROCESS – PROTECTED STATUS BASIS (Authority: SPP Title 5, § 5-211, *et seq.*)

For an employee who feels s/he has been a victim of bullying/harassment and/or discrimination **because** of the individual's age, ancestry, color, creed, gender identity and expression, genetic information, marital status, mental or physical disability, national origin, race, religious affiliation, belief or opinion, sex, sexual orientation or any other protected status, there are a number of options for pursuing a complaint. Whether a complaint is filed pursuant to Title 5 of the State Personnel and Pensions Article or externally (through the federal Equal Employment Opportunity Commission or the Maryland Commission on Civil Rights) the employee should be aware of the deadlines.

A complaint filed internally:

- Must be filed in writing;
- Must be filed with the head of the principal unit or the EEO Officer;
- That alleges a violation of § 5–208 of the State Personnel and Pensions Article must be filed within 1 year after the employee knew or reasonably should have known of the alleged violation.
- That alleges harassment in violation of § 20–606(a)(5) of the State Government Article must be filed within 2 years after the alleged violation that is the basis for the Complaint.

After the complaint has been received:

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SUBJECT: Bullying in the Workplace

Effective: 1/1/2017
Revised (v.2): 10/1/2024

- Within 60 days, the EEO Officer shall meet with the complainant and investigate the complaint, and make a recommendation to the head of the principal unit;
- The head of the principal unit or designee shall issue a written decision to the complainant, and may grant any appropriate relief;
- The decision may be a dismissal of the complaint or a finding that a violation has occurred;
- A decision may be appealed to the Office of the Statewide EEO Coordinator in writing and filed within 10 days after receiving a decision;
- The Statewide EEO Coordinator shall review both the complaint and decision, conduct any necessary investigation, and shall recommend to the DBM Secretary or designee a finding of whether a violation has occurred within 30 days after the appeal is received. The decision may grant an appropriate relief to the complainant or dismiss the complaint.

COMPLAINT BY WITNESS

Workplace bullying affects everyone. An employee who witnesses bullying behavior as defined in this policy should report that information to his or her appointing authority or agency head/Secretary, as appropriate, without delay. A witness to workplace bullying may make this report anonymously. Anonymous complaints may be more difficult to investigate, but the appointing authority or agency head/Secretary, as appropriate, has a duty to do so to the best of his or her ability.

RETALIATION PROHIBITED

Reprisal or retaliation against any employee who files a report about bullying is strictly prohibited. Any employee who harasses or intimidates another employee who has reported bullying behavior in the workplace may be subjected to disciplinary action, up to and including termination from State service.

DATA COLLECTION

It is imperative that the data on complaints and the outcome of investigations be collected by agency HR departments and shared with DBM. This shall be tabulated by work site and department in order to pinpoint specific problem locations.

Maryland Alcohol, Tobacco, and Cannabis Commission

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MD Disciplinary Matrix.pdf



STATEWIDE POLICE DISCIPLINARY MATRIX RESOURCE GUIDE

June 9, 2022

Final Edited Document – PTSC APPROVED

(Updated Version 3/9/23)



STATEWIDE POLICE DISCIPLINARY MATRIX

MARYLAND POLICE TRAINING AND STANDARDS COMMISSION

PURPOSE

Contained in this document is the Maryland Statewide Model Disciplinary Matrix required by the Maryland Police Accountability Act of 2021 (Public Safety Article, 3-105, Annotated Code of Maryland). The Statewide Model Disciplinary Matrix is the required framework through which **all matters of discipline** will be imposed as a result of a sustained disposition from an administrative investigation into an officer's misconduct. The purpose of this Disciplinary Matrix is to apply disciplinary standards in a fair, equitable and consistent manner statewide.

GENERAL PROVISIONS

In order to protect the collective integrity of a law enforcement agency, all matters that may result in discipline shall be imposed pursuant to the Disciplinary Matrix as responsive measures to an officer's sustained violation of an agency's policy or other police misconduct. Generally, each sustained misconduct violation shall be considered separately for the purpose of recommending and imposing discipline. However, when multiple violations arise from the same incident, a determination may be made that the most effective manner to address discipline in the case is to consolidate violations into one form of discipline.

Discipline is imposed for first violations and may follow a progressive course for repeat or increasingly serious offenses. This Disciplinary Matrix, and the imposition of discipline, shall not be based on the member's race, religion, gender expression, gender identity, sex assigned at birth, sexual orientation, national origin, age, ethnicity, or familial relationships. Furthermore, the imposition of discipline shall not be influenced by the high or low profile nature of the incident.

The Matrix includes a breakdown of six (6) different categories of violations, labeled A through F, with A as the lowest level of discipline and F as the highest. Each category is defined, along with example violations. Three penalty levels are included in each category which are based on the number of similar violations in a specified period of time. A disciplinary range is then used for assessing the recommended discipline. Based on aggravating and/or mitigating factors the disciplinary range can increase or decrease upon review of the totality of the circumstances surrounding the sustained violation.

DEFINITIONS

Aggravating Factors – Conditions or events related to the violation that increase the seriousness of the violation and may increase the degree of penalty as specified in the Matrix below. Examples of aggravating factors include, but are not limited to, the following:

- The officer's prior disciplinary history
- The officer's prior negative work history, including non-disciplinary corrective action
- The officer's rank
- The violation was committed willfully or for personal gain
- The officer's efforts to conceal the violation, or to be untruthful or dishonest
- The officer's failure to cooperate with the investigation into the alleged misconduct
- The violation was retaliatory in nature
- The violation or behavior was motivated by bias against a member or group of a protected class under the State's hate crimes law, (Public Safety Article, §10-304, Annotated Code of Maryland).
- The officer's expressed unwillingness to comply with policy, tactics, or performance standards
- The impact of the violation on the community or the department's ability to carry out its mission
- The degree to which the violation caused or could have caused the loss of life or injury, and
- The degree to which the violation caused loss or damage to public or private property.

Note: *Some aggravating factors may in themselves constitute additional violations of policy associated with separate, higher, ranges of discipline. For example, "efforts to conceal" even a minor violation may themselves constitute separate ethics/honesty violations subject to a higher range of discipline (e.g., lying or destroying/falsifying evidence to conceal a minor violation).*

Disciplinary Matrix – a written, consistent, progressive, and transparent tool or rubric that provides ranges of disciplinary actions for different types of misconduct. (Public Safety Article, §3-101, Annotated Code of Maryland).

Formal Written Counseling (FWC) – A form of counseling given to employees who have violated an agency's policy. Formal Written Counseling, the least severe form of disciplinary action, serves as a warning for violations. Further violations of same or similar conduct may result in more severe discipline. A copy of the formal written counseling shall be placed in the officer's disciplinary file.

Letter of Reprimand (LOR) – A formal letter to an officer from the agency which details the officer's wrongful actions and states their actions have been deemed inappropriate or unacceptable. Further violations of same or similar conduct may result in more severe discipline. A copy of this letter shall be placed in the officer's disciplinary file.

Loss of Leave (LOL) – Removal of leave from officer's accrued leave total (vacation, personal). Loss of leave shall be determined in hours.

Loss of Pay (LOP) – Suspension from duty without pay.

Level (One) – Penalty level for first offense violation.

Level (Two) – Penalty level for second offense of similar conduct.



Level (Three) – Penalty level for third offense or more of similar conduct.

Mediation – A process in which parties in a dispute work with one or more impartial mediators who assist the parties in reaching a voluntary agreement for the resolution of a minor dispute or conflict.

Mitigating Factors – Conditions or events that relate to the violation, but do not excuse or justify the violation, that are considered in deciding the degree of penalty. Examples of mitigating factors include, but are not limited to, the following:

- The officer's actions are attributable to selfless concern for the well-being of others
- The officer's lack of disciplinary history
- The officer's complimentary work history
- The officer's prior positive work history
- The violation was the inadvertent result of reasonable, otherwise compliant performance
- The officer's prompt acceptance of responsibility for the conduct and willingness to be held accountable
- The officer's commission of the violation at the direction of a superior (who might also be subject to separate discipline)
- Unusually serious workplace tensions / stressors, and
- The violation is attributable to limitations beyond the control of the officer that are caused by legally protected physical or mental disabilities and/or conditions.

Penalty Days – The forfeiture of vacation days and/or the imposition of suspension without pay for a specified period of time. The decision to suspend, deduct vacation days, or impose a combination of both, is based upon the severity of the misconduct along with any relevant aggravating and mitigating factors. The local ACC and/or Agency Head shall define a "day" as a specified number of hours depending on the officer's schedule and/or unit within the agency.

Police Misconduct – Refer to Public Safety Article, §3-101, Annotated Code of Maryland.

Remedial Training – Training designed to correct the behavior of officers who have failed to perform their duties with the skill, knowledge and/or ability expected and/or required of them, or have otherwise demonstrated a need for additional training.

PROCEDURES

Violation Categories – The Matrix includes six (6) categories. Each offense is categorized by a letter (A-F) that represents the severity of the offenses in that category. Category A is the lowest level of discipline and Category F is the highest level. Each category is defined along with a list of example misconduct violations that fit into that category.

Special Circumstance Categories – Special circumstance categories are specific violations with their own disciplinary ranges.

Factors Influencing Discipline – Mitigating and aggravating factors surrounding a violation may increase or decrease the discipline. Those factors will be considered within the disciplinary range for a specific category.



Multiple Count Adjustments – Generally, each sustained misconduct violation shall be considered separately for the purpose of recommending and imposing discipline. However, when multiple violations arise from the same incident, a determination may be made that the most effective manner to address discipline in the case is to consolidate violations into one form of discipline. The most serious offense is used as a starting point within a violation category. The other offenses determine whether and how much to increase the discipline within the selected violation category.

Prior Disciplinary Record - Same Category – The Matrix incorporates an officer's prior sustained disciplinary record in determining discipline for a new violation. In each category, there are three penalty levels based on the number of misconduct violations within a specified period of time. Three or more sustained violations in the same category and specified time period will progress to the next higher offense category noted in the Matrix. Prior sustained disciplinary action may also be considered as an aggravating factor.

Determining Discipline – In determining discipline, there must first be an agency policy violation or other police misconduct. Once a violation has been identified, first review the violation category definitions, along with similar example violations and select the most appropriate category. Next, determine if the offense is a first offense or repeat offense and select the appropriate level. The disciplinary section is located to the right of the category definition and level. Each chart includes an acceptable disciplinary range for applicable violations. In addition to the severity of the conduct, mitigating or aggravating factors should be considered prior to making a final determination of discipline. The range of discipline includes formal written counseling (least severe), reprimands, penalty days, demotion and termination (most severe). Demotion may only be considered as a discipline penalty if the misconduct is determined to be a Category D or E violation. Demotion may be the sole penalty or in addition to a penalty within the disciplinary range.

Additional Corrective Measures – Notwithstanding the penalties in the Matrix, an officer may be referred to counseling, an employee assistance program, and/or remedial training. Additionally, suspension or removal from a take-home car program and suspension or removal from secondary employment are also options for an ACC to consider. These options may also be imposed by police management, independent of the Local Administrative Charging Committee, consistent with management rights and/or agency policy.

Violations that Fall into Multiple Violation Categories – Some violations can fall into multiple categories depending on the severity of the violation. For example, penalties for body-worn camera related violations, insubordination, and harassment may carry more or less severe penalties, depending on which category most accurately fits the member's actions.

Notes:

- *PAB/ACCs and Agencies may only deviate from the use of the Matrix when required to do so by court order, consent decree or any other superseding legal authority. The Matrix does not impact police management rights to maintain the order and manage the affairs of an agency in all aspects including, but not limited to, establishing standards of service, transfer or assignment of employees, establishing standards for performance and conduct, and maintaining control and regulation of the use of government equipment and/or property.*
- *Agencies that operate a formal mediation program are not impacted by this process since it occurs prior to an investigation and is mutually agreed to by the agency, complainant and officer.*





STATEWIDE POLICE DISCIPLINARY MATRIX

MARYLAND POLICE TRAINING AND STANDARDS COMMISSION

Note: An agency policy violation or other misconduct must first be identified prior to selecting a Violation Category. If the specific policy/procedure violation is not listed in the examples, review the violation category definition, along with similar violations and select the most appropriate category.

VIOLATION CATEGORY – A

Categories and Descriptions	Level	Disciplinary Range	
		Mitigating Factors → Aggravating Factors	
Category A: Conduct that has or may have a minimal negative impact on operations or professional image of the law enforcement agency.	ONE: 1st Violation	Formal Written Counseling →	Letter of Reprimand
	TWO: 2nd Violation in 24 Months	Formal Written Counseling →	Up to 1 Day Loss of Leave or Loss of Pay
	THREE: 3rd Violation in 24 Months	GO TO CATEGORY B LEVEL 1	

Policy Violation Examples for Category A

Note: The below list represents violation examples that may fall into this category. An agency policy violation must first be identified.

Violation associated with improper attire and grooming (uniformed/non-uniformed)
Late for duty assignment
Failure to properly care for agency vehicle, including but not limited to vehicle inspection and maintenance care
Failure of officer to provide identification when required
Failure to comply with traffic stop procedures
Loss of agency property (excluding weapon and radio)
Parking Violations

VIOLATION CATEGORY – B

Categories and Descriptions	Level	Disciplinary Range	
		Mitigating Factors → Aggravating Factors	
Category B: Conduct that has or may have a negative impact on the operations or professional image of law enforcement agency; or that negatively impacts relationships with other officers, agencies, or the public.	ONE: 1st Violation	Letter of Reprimand →	Up to 2 Days Loss of Leave or Loss of Pay
	TWO: 2nd Violation in 36 Months	1 Day Loss of Leave or Loss of Pay →	Up to 3 Days Loss of Leave or Loss of Pay
	THREE: 3rd Violation in 36 Months	GO TO CATEGORY C LEVEL 1	

Violation Examples for Category B	
Note: The below list represents violation examples that may fall into this category. An agency policy violation must first be identified.	
Rude, discourteous actions towards the public or other employees to include profanity and/or obscene gestures.	
Failure to furnish name, ID number, and assignment	
Officer using their official status, name, or photograph to endorse any product or service connected with law enforcement for personal gain without permission from agency	
Failure to remain alert and awake on duty	
Failure to notify supervisor of the suspension, revocation, or cancellation of driver's license	
Unauthorized use or wearing agency issued equipment (or use of agency insignia) while working secondary employment	
Failure to make required inspection of agency vehicle for weapons/contraband prior to and after transporting a prisoner	
Operating an agency vehicle beyond jurisdictional boundaries without authorization	
Altering or modifying agency equipment without approval	
Operating an agency vehicle while on sick leave, light duty status, or suspension without authorization	
Failure to submit required report	
Failure to conduct preliminary and follow-up investigation/reporting	
Improper use of Internet or other communications equipment	
Working secondary employment without approval	
Violation of social media policy	
Failure to accept a complaint against an officer	
Failure to obey traffic laws –minor, while operating an agency vehicle	

VIOLATION CATEGORY – C

Categories and Descriptions	Level	Disciplinary Range	
		Mitigating Factors → Aggravating Factors	
Category C: Conduct that involves a risk to safety or that has or may have a pronounced negative impact on the operations or professional image of the law enforcement agency or a member, or on relationships with other officers, agencies, or the public.	ONE: 1st Violation	2 Days Loss of Leave or Loss of Pay →	Up to 4 Days Loss of Pay
	TWO: 2nd Violation in 48 Months	3 Days Loss of Pay or 3 Days Loss of Leave →	Up to 5 Days Loss of pay
	THREE: 3rd Violation in 48 Months	GO TO CATEGORY D LEVEL 1	

Violation Examples for Category C

Note: The below list represents violation examples that may fall into this category. An agency policy violation must first be identified.

Failure to notify or report to duty assignment – Absent without leave (AWOL)
Failure to notify agency that officer has become subject of a criminal investigation
Failure to properly secure a firearm
Unauthorized/careless use/handling/display of a weapon
Carrying an unauthorized firearm, ECD or other weapon in a vehicle or on the officer's person, on or off duty
Discharging of firearm in violation of policy – no injury
Failure to properly search a prisoner incident to arrest
Improper release/escape of a prisoner (no criminal intent)
Unnecessary force/excessive force resulting in unknown injury or minor injury
Failure to document or investigate a physical use of force
Engaged in secondary employment while on sick leave
Unauthorized vehicle pursuit– no injury
Dissemination of confidential information related to a criminal investigation, Criminal Justice Information System (CJIS) or Motor Vehicle Administration (MVA) to unauthorized persons



VIOLATION CATEGORY – D

Categories and Descriptions	Level	Disciplinary Range	
		Mitigating Factors → Aggravating Factors	
Category D: Conduct substantially contrary to the values of the law enforcement agency or that substantially interferes with its mission, operations, or professional image, or that involves a serious risk to officer or public safety, or intentionally violates law enforcement agency policy.	ONE: 1st Violation	5 Days Loss of Pay or 5 Days Loss of Leave	→ Up to 15 Days Loss of Pay
	TWO: 2nd Violation in 60 Months	10 Days Loss of Pay	→ Up to 20 Days Loss of Pay
	THREE: 3rd Violation in 60 Months	GO TO CATEGORY E LEVEL 1	

Note: Demotion and/or reduction in rank can also be considered as an independent sanction or in addition to another disciplinary penalty for Category D

Violation Examples for Category D	
<i>Note: The below list represents violation examples that may fall into this category. An agency policy violation must first be identified.</i>	
Reporting to work with a measurable amount of alcohol in system, (no requirement to be legally intoxicated)	
Failure to provide and/or request needed medical assistance (includes individuals not in custody)	
Failure to notify agency that officer has been charged with a civil or criminal violation, whether by arrest or criminal summons.	
Unauthorized vehicle pursuit– with injury	
Failure to report a firearm or less lethal weapon discharge (includes accidental discharges)	
Failure to report an agency collision	



VIOLATION CATEGORY – E

Categories and Descriptions	Level	Disciplinary Range	
		Mitigating Factors → Aggravating Factors	
Category E: Conduct that involves misuse of authority, unethical behavior (not involving false reporting or false statements), or an act that could result in an adverse impact on an officer or public safety or to the professionalism of the law enforcement agency or a violation of any misdemeanor.	ONE: 1st Violation	15 Days Loss of Pay →	25 Days Loss of Pay up to TERMINATION
	TWO: 2nd Violation in 60 Months	15 Days Loss of Pay →	30 Days Loss of Pay up to TERMINATION
	THREE: 3rd Violation in 60 Months	GO TO CATEGORY F LEVEL 1	

Note: Demotion and/or reduction in rank can also be considered as an independent sanction or in addition to another disciplinary penalty for Category E

Violation Examples for Category E
<i>Note: The below list represents violation examples that may fall into this category. An agency policy violation must first be identified.</i>
Using official position to avoid consequences of criminal laws and/or incarcerable traffic violations.
Unnecessary force/excessive force resulting in serious injury
Failure to report a use of force
Engaging in acts of retaliation
Discharging of firearm resulting in injury or death, non-criminal intent
Obstructing or hindering a criminal investigation
Obstructing or hindering internal affairs or an administrative investigation
Affiliation with any person or organization known to be involved in criminal activity

VIOLATION CATEGORY – F

Categories and Descriptions	Level	Disciplinary Range Mitigating Factors → Aggravating Factors
Category F: Any violation of law, policy, rule or regulation which: foreseeably results in death or serious bodily injury; or constitutes a willful and wanton disregard of the law enforcement agency's mission, vision and values; or involves any act or omission which demonstrates a serious lack of the integrity, ethics or character related to an employee's fitness to hold their position; or involves egregious misconduct substantially contrary to the standards of conduct reasonably expected, to include those whose sworn duty is to uphold the law; or involves conduct which constitutes the failure to adhere to any condition of employment required or mandated by law, including any 18 U.S.C. § 922(g) (Lautenberg) violations.	ONE: ANY VIOLATION	TERMINATION

Violation Examples for Category F Note: The below list represents violation examples that may fall into this category. An agency policy violation must first be identified.	
Truthfulness: Intentionally making any verbal or written false statement during an official investigation or on any official agency document.	Enforcement and/or detention of individuals based on discriminatory practices
Engaging in sexual behavior on duty	Engaging in sexual behavior in an agency vehicle or facility, on or off duty
Intentional malicious and unjustified use of force resulting in serious bodily injury or death	Intentional erasing video footage and/or audio transmissions from digital video camera equipment (BWC/In-Car Camera)
Converting property/evidence for personal use	Performing secondary employment while on-duty
Improper use of controlled dangerous substance (CDS), narcotic, or hallucinogen	Tampering or manufacturing of evidence
Knowingly participating or joining an organization that advocates, incites, or supports criminal acts or criminal conspiracies or that promotes hatred or discrimination toward racial, religious, ethnic, or other groups or classes of individuals protected by law.	



STATEWIDE POLICE DISCIPLINARY MATRIX

MARYLAND POLICE TRAINING AND STANDARDS COMMISSION

SPECIAL CIRCUMSTANCE VIOLATIONS

Categories and Descriptions	Level	Disciplinary Range	
		Mitigating Factors →	Aggravating Factors
DRIVING UNDER THE INFLUENCE Category 1: Any <u>off-duty</u> driving under the influence of alcohol and/or drugs which would constitute a violation of law.	ONE: 1st Violation	15 Days Loss of Pay	→ TERMINATION*
	TWO: 2nd Violation	30 Days Loss of Pay	→ TERMINATION*
	THREE: 3rd Violation	TERMINATION*	
Category 1a: Any <u>on-duty</u> or off-duty in a departmental vehicle driving under the influence of alcohol and/or drugs which would constitute a violation of law.	ONE: 1st Violation	TERMINATION*	

**Unless prohibited by Executive Order or Government Policy*

Categories and Descriptions	Level	Disciplinary Range	
		Mitigating Factors →	Aggravating Factors
FAILURE TO APPEAR FOR COURT/MVA HEARINGS Category 2: Intentional or purposeful failure to appear for any properly summoned court appearance which is the result of action taken as a law enforcement officer. This category also includes MVA hearings. *Resets 1 calendar year from the date of the first violation.	ONE: 2 violations in 1 year	Formal Written Counseling	→ Formal Written Counseling
	TWO: 2 additional violations in 2 years	Formal Written Counseling	→ Up to 2 Days Loss of Leave or Loss of Pay

DEPARTMENTAL COLLISIONS

Categories and Descriptions	Level	Disciplinary Range	
		Mitigating Factors →	Aggravating Factors
DEPARTMENTAL COLLISIONS Category 1: Minor Damage¹ to Police Vehicle and/or Other Property or Vehicle ¹ Law Enforcement Agencies may establish a dollar amount as a guideline for determining the level of severity (minor vs major). ² Driver Re-training can be imposed at any level but is mandatory for three or more at-fault departmental collisions.	ONE: 1 st Violation up to 12 months	Formal Written Counseling	Letter of Reprimand
	TWO: 2 nd Violation within 0-24 months	Formal Written Counseling	Up to 2 Days Loss of Leave or Loss of Pay
	THREE²: 3 rd or more Violation within 0-36 months	Letter of Reprimand	Up to 5 Days Loss of Leave or Loss of Pay
Category 2: Major Damage to Police Vehicle and/or Other Property or Vehicle ¹ Law Enforcement Agencies may establish a dollar amount as a guideline for determining the level of severity (minor vs major). ² Driver Re-training can be imposed at any level but is mandatory for three or more at-fault departmental collisions.	ONE: 1 st Violation up to 12 months	Formal Written Counseling	Up to 1 Day Loss of Leave or Loss of Pay
	TWO: 2 nd Violation within 0-24 months	Letter of Reprimand	Up to 3 Days Loss of Leave or Loss of Pay
	THREE²: 3 rd or more Violation within 0-36 months	Letter of Reprimand	Up to 10 Days Loss of Leave or Loss of Pay
Category 3: Injury to Law Enforcement Personnel and/or Civilian If gross negligence or reckless operation of a police vehicle is involved in any collision that results in serious injury or death the disciplinary range will increase up to and including termination.	ONE: 1 st Violation up to 12 months	Formal Written Counseling	Up to 2 Days Loss of Leave or Loss of Pay
	TWO: 2 nd Violation within 0-24 months	Letter of Reprimand	Up to 5 Days Loss of Leave or Loss of Pay
	THREE²: 3 rd or more Violation within 0-36 months	Letter of Reprimand	Up to 14 Days Loss of Leave or Loss of Pay



STATEWIDE POLICE DISCIPLINARY MATRIX

MARYLAND POLICE TRAINING AND STANDARDS COMMISSION

VIOLATION EXAMPLES THAT MAY FALL INTO MULTIPLE VIOLATION CATEGORIES DEPENDING ON THE FACTS OF A CASE

The policy violation examples set forth in this document are not intended to serve as an exhaustive list of prohibitions on officer conduct and activities. Rather, they are intended to be a sampling of policy violations that exist in the majority of law enforcement agencies. Examples of misconduct have been provided in each policy violation category to serve as a guide in determining discipline for officers found to have violated an agency's policy or general orders/procedures. However, while policy examples outlining acceptable and unacceptable conduct for officers is necessary, not every situation can or will be covered explicitly. Below is a listing of policy conduct violations commonly found in law enforcement policies that may not fall into one specific violation category, but may warrant a higher or lower level of discipline based on the severity of the misconduct.

ABUSE OF POSITION: Officers conduct, whether on or off duty, where their authority or position is used for financial gain, obtain or grant privileges or favors, avoid consequences of illegal acts for themselves or others, or to barter, solicit or accept any good or services, such as gratuities, gifts, discounts, rewards, loans, or fees, whether for themselves or others.

BWC/IN CAR VIDEO/VIDEO RECORDED EQUIPMENT VIOLATIONS

CONDUCT UNBECOMING: Officer conduct, whether on or off duty, that casts doubt on their integrity, honesty, moral judgment, or character; brings discredit to an agency; or impairs the agency's efficient and effective operation.

CUSTODIAL RELATED VIOLATIONS (ABUSE, SECURING, TRANSPORTATION, MEDICAL CARE)

DISCRIMINATION AND/OR HARASSMENT TOWARD AN INDIVIDUAL BASED ON RACIAL, RELIGIOUS, ETHNIC, OR OTHER GROUPS OR CLASSES OF INDIVIDUALS PROTECTED BY LAW

DUTY TO INTERVENE/FAILURE TO DEESCALATE

FAILURE OF SUPERVISOR TO PROPERLY MANAGE PERSONNEL AND/OR FOLLOW SUPERVISORY POLICY RESPONSIBILITIES

INSUBORDINATION: Willful failure of an officer to obey a supervisor's lawful orders.

VIOLATIONS OF FEDERAL, STATE OR LOCAL LAW

WORKPLACE VIOLENCE: Any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs in the workplace or arises out of the employment relationship.



Maryland Alcohol, Tobacco, and Cannabis Commission

Maryland Alcohol and Tobacco Commission Policy Manual

Maryland Reasonable Accommodation Policy and Procedures pdf Updated February 2023.pdf

STATE OF MARYLAND

Wes Moore
Governor

Aruna Miller
Lieutenant Governor

REASONABLE ACCOMMODATIONS

POLICY AND PROCEDURE

Department of Budget and Management

Helene Grady
Secretary

Nicole Webb
Statewide Equal Employment Opportunity Coordinator

An Equal Opportunity Employer

MARYLAND REASONABLE ACCOMMODATIONS POLICY AND PROCEDURES

1. POLICY

- 1.1 The State of Maryland is dedicated to full compliance with the reasonable accommodation requirements and the Americans with Disabilities Act.
- 1.2 No employee shall be retaliated against for seeking a reasonable accommodation for a disability.

2. LEGAL AUTHORITY

- 2.1 Title I of the Americans with Disabilities Act (ADA) of 1990, as amended, 42 U.S.C. § 12102, et seq.
 - 2.1(a). Americans with Disabilities Act Amendment Act of 2008.
- 2.2 Section 504 of the Rehabilitation Act of 1973 as amended, Title 34 C.F.R. Section 104.12.
- 2.3 Executive Order 01.01.2007.16 Code of Fair Employment Practices.
- 2.4 Annotated Code of Maryland State Personnel and Pensions Article, Title 2-302 and Title 5-2.
- 2.5 State Government Article, Title 20

3. DEFINITIONS

- 3.1 Disability means:
 - A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
 - A record of such impairment; or
 - Being regarded as having such impairment.
- 3.2 Substantially Limits – generally means inability to perform a major life activity that the average person in the general population can perform or restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as

Reasonable Accommodations Policy and Procedure

compared to the average person in the general population can perform. This should be broadly interpreted without consideration of mitigating measures such as:

- Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
- Use of assistive technology;
- Reasonable accommodations or auxiliary aids or services; or
- Learned behavior or adaptive neurological modifications.

3.3 Major Life Activities – Includes, but is not limited to, functions such as caring for one-self, performing manual tasks, walking, seeing, hearing, speaking, breathing, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, learning, and working. Also includes major bodily functions, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

3.4 Qualified individual with a disability – An individual with a disability who meets the job requirements of the position and who, with or without reasonable accommodation, can perform the essential functions of such position.

3.5 Essential Functions – The fundamental job duties of the employment position. The term “essential functions” does not include the marginal functions of the position.

3.6 Reasonable Accommodation – means:

- Modification(s) or adjustment(s) to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
- Modification(s), adjustment(s), or change(s) to a job or work environment or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
- Modification(s) or adjustment(s) that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees.
- Only individuals who have an actual disability, or who have a record of a disability are entitled to accommodations; individuals who are regarded as having a disability are not entitled to accommodations.

Reasonable Accommodations Policy and Procedure

- 3.7 Undue Hardship – Significant difficulty or expense incurred by the employer to provide a reasonable accommodation. The employer has the burden of proving that providing a reasonable accommodation would impose undue hardship on the employer.
- 3.8 Request for accommodation – A verbal or written request for modification or adjustment in the work environment or process of job application.

4. CONFIDENTIALITY

- 4.1 All documents concerning an employee's reasonable accommodations request should be maintained in the employee's confidential file, separate from the employee's official personnel file, in accordance with applicable confidentiality laws and regulations.

5. PROCESSING A REQUEST FOR ACCOMMODATION

- 5.1 An employee makes a request for a reasonable accommodation to a supervisor, manager, ADA Coordinator, or Human Resource Representative.
- 5.2 Request can be in writing or verbal. The adjustment or change must be for a disability and need not mention the ADA or use the phrase "reasonable accommodation". The following examples should be treated as requests for accommodation:
- An employee tells his/her supervisor, "I'm having trouble punching the keys on the calculator because of medical treatments I'm undergoing".
 - An employee who uses a wheelchair informs his employer that his wheelchair does not fit under the desk.
 - A qualified applicant requests a sign language interpreter at the interview.
- 5.3 The agency representative asks the employee to complete the Reasonable Accommodation Request Form (for record keeping purposes) and may ask for documentation.
- 5.4 Medical documentation may be needed to establish that the employee has a disability and requires a reasonable accommodation. The medical documentation should explain the disability and functional limitations. The employer should not request documentation that is unrelated to determining the existence of a disability and the necessity for an accommodation. For example, a person's complete medical records should not be requested because they may contain information unrelated to the disability at issue and the need for accommodation.
- 5.5 The employer should promptly initiate the interactive process with the employee to determine the employees' needs and identify the appropriate reasonable accommodation.

Reasonable Accommodations Policy and Procedure

5.5.1 Questions to ask employee regarding accommodations (not limited):

- What limitations are you experiencing?
- To what degree do these limitations affect your performance?
- What specific tasks are problematic?
- What accommodations will help you perform the tasks that are problematic?

5.6 The employer is not required to provide the reasonable accommodation that the employee wants. The employer may choose among reasonable accommodations as long as the chosen accommodation is effective.

5.7. Undue hardships are determined on a case-by-case basis.

- The nature and net cost of the accommodation needed under this part, taking into consideration the availability of outside funding;
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility and the effect on expenses and resources;
- The type of operation or operations of the employer including the composition, structure, and functions of the work force of the employer, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the employer;
- Legitimate safety concerns; and
- The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

5.8 The decision to grant or deny a reasonable accommodation request should be in writing.

5.9 Where an agency has denied a requested reasonable accommodation but offered to make different one in its place, the agency's notice should explain both the reasons for the denial of the requested accommodation and the reasons that it believes that the chosen accommodation will be effective.

5.10 All agency denials must notify the employee that they have a right to file an Equal Employment Opportunity Complaint.

Maryland Alcohol, Tobacco, and Cannabis Commission

Maryland Alcohol and Tobacco Commission Policy Manual

ATCC Ride_Along_Waiver.pdf



Maryland Alcohol, Tobacco & Cannabis Commission
Field Enforcement Division
Waiver of Claim and Release from Liability

This Waiver of Claim and Release from Liability, is hereby granted this _____ day of _____, in the State of Maryland, to the State of Maryland, the Alcohol, Tobacco, & Cannabis Commission (ATCC), their agencies, employees, agents and officials, by the undersigned.

WITNESSETH,

That in consideration of the permission given to _____ by the Director of the ATCC Field Enforcement Division to ride in the vehicle with Agent _____, and use its fixtures and attachments, commencing on or about the _____ day of _____ we the undersigned, on behalf of ourselves, our heirs, executors, administrators, assigns and other persons in interest, hereby expressly agree to save harmless, to waive any possible claim or right of action and to fully and forever release the State of Maryland, the ATCC, their agencies, employees, agents and officials from any and all right, claim or cause of action, existing or which possible could arise at any time in the future, as a direct or indirect result of said Ride-along being permitted to enter, attempting to enter, ride in, or attempting to ride in, leaving, or attempting to leave, or otherwise use or be in or about said vehicle, whether in motion or not (including, without being limited to: death, personal injury, loss or damage to real or personal property) or the execution, or attempted execution of a duty by a member of the Field Enforcement Division, or any other person for whom the grantees are liable.

THIS IS AN ABSOLUTE WAIVER AND RELEASE

Passenger Name

Passenger Signature

Agent

Maryland Alcohol, Tobacco, and Cannabis Commission

Maryland Alcohol and Tobacco Commission Policy Manual

drivers_manual.pdf



State of Maryland

Policies and Procedures for Drivers of State Vehicles

July 2010

Department of Budget and Management

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DEFINITIONS

AGENCY HEAD: The chief executive officer at the Agency, or the officer's designee.

ALTERNATIVE FUEL: Fuel other than gasoline or diesel such as methanol ethanol and other alcohols; mixtures of 85% or more of these other alcohols with other fuels such as gasoline; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels derived from biological materials, electricity, etc.

ASSIGNED VEHICLE: Any State vehicle assigned to an individual in accordance with the DBM assignment criteria.

AUTHORIZED DRIVER: A State employee who meets the eligibility criteria to drive a State vehicle as set forth in the *Policies and Procedures for Drivers of State Vehicles*, and has certified an understanding of the rules by signing the Acknowledgement Statement.

BI-FUEL VEHICLE: Vehicles that have two fuel systems, one with an alternative fuel and one with a conventional fuel, and which may operate on one fuel at a time, or, in some medium- and heavy-duty systems, a combination of the alternative and conventional fuels.

COMMUTE MILES: Distance traveled between driver's home and the driver's assigned office location.

COMMUTE CHARGE: A bi-weekly charge assessed to non-exempt authorized drivers for commuting privileges.

DBM: The Department of Budget and Management

FLEET MAINTENANCE AND REPAIR SERVICES AGREEMENT: An agreement between a Fleet Maintenance and Repair Services Contractor and the State permitting the State to access a network of maintenance and repair facilities and obtain pricing on vehicle maintenance and repair services for those State vehicles enrolled with the Contractor.

FLEXIBLE-FUEL VEHICLE: Any motor vehicle engineered and designed to be operated on an alternative fuel, a petroleum fuel, or a broad mixture of the two.

LTVs: Pick-up trucks and vans with a gross vehicle weight of 8,500 pounds or less.

LAW ENFORCEMENT OFFICER: A person who in an official capacity is authorized by law to make arrests.

MAINTENANCE SERVICE COUPON: The coupon provided to agencies from the National Fleet Service Contractor used to obtain maintenance, repairs, and emergency road services from approved network vendors.

MOBILE COMMUNICATIONS DEVICE: A mobile communications device is a mobile telephone, email appliance, wireless personal digital assistant, or a device combining two or more of these functions.

OFFICE: The principal office or official duty station to which an authorized driver is assigned as determined by the Agency Head.

POOL VEHICLE: Any State vehicle that is not assigned to an individual.

SECRETARY: The Secretary of Budget and Management or the Secretary's designee.

STATE VEHICLE: Any motor vehicle titled, rented or leased to the State of Maryland.

1. INTRODUCTION

1.1 SCOPE

These policies and procedures apply to all State-owned or leased motor vehicles used for official State business within the Executive Branch of the State Government. These policies and procedures are adopted pursuant to State Finance and Procurement Article §3-503 of the Annotated Code of Maryland. Unless otherwise provided, all requests, reports and forms required by these policies are to be submitted to the State Fleet Administrator in the DBM Fleet Administration Unit.

These policies and procedures are designed as minimal requirements and do not prohibit agencies from establishing and enforcing more stringent requirements within their own jurisdiction. State agencies shall establish necessary procedures to ensure compliance with established policies and procedures.

1.2 EXCEPTIONS

Exceptions to any of the provisions of the Policies and Procedures for Drivers of State Vehicles require written authorization from the Secretary.

1.3 FAILURE TO COMPLY WITH THE POLICIES AND PROCEDURES

Failure to comply with these policies and procedures may subject an employee to disciplinary action, including termination.

2. DRIVER ELIGIBILITY AND USAGE OF STATE VEHICLES

Only authorized drivers are eligible to drive a State vehicle. The privilege to drive a State vehicle is contingent upon compliance with the Policies and Procedures for Drivers of State Vehicles.

Prior to driving a State vehicle, the driver shall sign the Policies and Procedures an Acknowledgement Statement (Appendix 1). A copy of the signed Acknowledgement Statement shall be retained by the Agency fleet manager. Drivers who do not sign the Acknowledgement Statement are NOT authorized to drive State vehicles.

2.1 DRIVER ELIGIBILITY

In order to be eligible to drive a State vehicle a driver must have a driver's license valid in the State of Maryland and appropriate for the class of vehicle driven and have five (5) or fewer points on his/her current driving record.

Eligibility shall be immediately suspended for a driver who is charged with any motor vehicle violation for which a penalty of incarceration is possible while driving a State vehicle. Motor vehicle citations for these violations will indicate that the violation is a "Must Appear" violation and that the driver must appear when

notified by the Court. Eligibility shall remain suspended until the Agency's Accident Review Board has reviewed the occurrence, and a decision regarding further action is made.

Drivers who have had their driving privilege suspended as a result of point accumulation, being charged with any offense for which a penalty of incarceration is possible while driving a State vehicle, or a determination by the Accident Review Board or Agency Head shall be reimbursed for use of a private vehicle at no more than one-half of the effective State reimbursement rate.

2.2 DRIVER RECORD REVIEW

The driving record of each authorized driver will be reviewed by the Agency when the driver signs the Acknowledgement Statement and when information is received pertaining to an authorized driver's accumulation of points from the MVA's License Monitoring System (LMS) or Direct Access Records System (DARS), or otherwise affecting driver eligibility.

Drivers with out-of-state driver's licenses must provide a certified copy of their driver record to the Agency when they sign the Acknowledgement Statement, and annually thereafter. Drivers with out-of-state driver's licenses must notify their Agency fleet manager in the event they accumulate more than five (5) points on their driving record. This notification must occur within ten (10) days of the points being assessed.

2.3 PERMISSIBLE USE OF STATE VEHICLES

State vehicles are to be used to conduct official State business. Whenever possible, trips should be planned to coincide with other authorized driver travel requirements so that vehicles are used efficiently and economically.

- a. Except in the case of State Officials who receive Executive Protection from and are provided driver services by the Maryland State Police, State vehicles shall not be used for personal reasons, including transporting friends or members of the family (e.g. transporting children to and from school).
- b. Passengers in State automobiles are limited to persons being transported in connection with State business.
- c. There shall be no smoking in State vehicles.

2.4 VEHICLE MILEAGE LOG

- a. A Vehicle Mileage Log shall be maintained in each State sedan or LTV on a monthly basis.
- b. All drivers must complete a Vehicle Mileage Log, indicating all destinations by official and commute mileage. Agencies are required to maintain these logs for audit purposes. A Vehicle Mileage Log is included as Appendix 2.

- c. Elected Officials, Department Secretaries and heads of independent Agencies are not required to maintain a Vehicle Mileage Log. However, month-ending odometer readings must be reported in WebFleetMaster for each vehicle driven by an Elected Official, Department Secretary or independent Agency Head.

2.5 SAFETY

All drivers shall operate State vehicles in compliance with the Motor Vehicle Laws of the jurisdiction in which the vehicle is being driven and in a manner that reflects concern for safety and courtesy towards the public.

- a. An authorized driver shall operate a State vehicle in accordance with any license requirements or restrictions, such as corrective lenses, daytime only, etc.
- b. The driver of a State vehicle should take every precaution to ensure the safety of passengers. No person may ride in a State vehicle unless properly restrained by a seat belt or, in the case of children, an appropriate child safety seat. It shall be the driver's responsibility to ensure that all passengers are properly restrained.
- c. All traffic and parking laws are to be obeyed. Posted speed limits are not to be exceeded, nor is the vehicle to be operated above safe driving speeds for road conditions. All traffic and parking violations and fines, including any late fees or penalties, are the responsibility of the driver involved. Failure to promptly pay a violation or fine may result in disciplinary action.
- d. Employees driving State vehicles are required to comply with all state and local laws regarding the use of a mobile communications device while driving. If a mobile communications device must be used by an employee while driving a State vehicle, a hands-free device must be used. Drivers are encouraged to keep mobile communications device use to a minimum. Whenever possible, employees should not make or receive calls while driving. Only in the case of an emergency is the use of a hand-held mobile communications device without a hands-free device permitted.

This policy does not apply to law enforcement officers or operators of authorized emergency vehicles.

- e. The driver of a State vehicle shall take every precaution to ensure the safety of the vehicle and its contents. The driver shall lock the vehicle and take the keys, except in those instances when a commercial parking garage requires the keys be left with the vehicle.
- f. Authorized drivers of State vehicles are personally responsible for vehicles operated by them. If a State vehicle is damaged as a result of misuse or gross negligence, the operator of the vehicle may be required to make restitution to the State. If a State vehicle is damaged beyond repair as a result of misuse or gross negligence the operator of the vehicle may be required to make restitution of the difference between the amount obtained as salvage value and the amount of the then current wholesale value of the vehicle as reported in the *National Auto Research Black Book*

2.6 MOVING VIOLATION REPORTING

An authorized driver, including an Agency Head, charged with a moving violation or a must appear violation while driving a State vehicle shall notify his/her Agency fleet manager immediately, and in no case later than the following business day. In turn, the Agency shall notify DBM in writing within two business days of receiving notice of the charge. Failure to timely report the receipt of a moving violation or a must appear violation may result in disciplinary action.

2.7 ACCIDENT GUIDELINES AND REPORTING

If there is an accident involving a State vehicle the State Accident Guidelines (Appendix 3) should be followed. A copy of these guidelines will be kept in the Vehicle Mileage Log folder.

Authorized drivers should familiarize themselves with the State's Accident Guidelines, which are to be provided to the driver along with a copy of the Policies and Procedures for Drivers of State Vehicles. In the event there is an accident involving a State vehicle the Guidelines should be followed.

An authorized driver, including an Agency Head, who is involved in an accident while driving a State vehicle, shall report the accident to their Agency fleet manager immediately and in no case later than one business day after the accident, even if no other vehicle is involved or there are no apparent injuries or damages.

Accidents involving State vehicles being driven by an Agency Head must be reported to DBM FAU immediately.

3. DRIVER ASSIGNMENT, COMMUTE AND TAX LIABILITY

3.1 ASSIGNMENT CRITERIA

Assignment of a State vehicle to an individual authorized driver is based solely on the requirement for official use, and should result in the most effective and economical use of the vehicle. In assigning State vehicles, agency fleet staff shall consider the driver's expected official mileage accumulation, specific field assignment, and the need for specialized vehicle equipment in performance of the driver's job.

3.2 DRIVER COMMUTE CHARGE

In most cases, drivers who are assigned a State vehicle are subject to a commute charge. The commute charge is based upon the driver's normal commute from their home to their assigned office at a per mile rate determined by DBM. This charge is collected via payroll deduction and will be amended by the Agency if the driver moves, is reassigned to a new office, or is assigned a higher cost vehicle.

The assigned driver shall complete a State Auto Commute Charge Form MFOMS-17 prior to accepting

assignment of a State vehicle. This form will be provided by the Agency fleet manager.

3.3 COMMUTE RECORDS

All commute miles shall be recorded in the Vehicle Mileage Log. If an authorized driver leaves home in a State vehicle and comes to the assigned office any time during the day, the normal one-way commute mileage shall be recorded on the Vehicle Mileage Log. If the authorized driver returns home that same day, a normal two-way commute shall be recorded on the Vehicle Mileage Log. However, if an authorized driver leaves home and conducts business without stopping at the assigned office, mileage up to the driver's normal round trip commute is to be recorded as commute miles on the Vehicle Mileage Log, and only those miles in excess of the driver's normal commute are to be recorded as official miles on the Vehicle Mileage Log.

Authorized drivers whose duties are primarily field assignments and who report to the designated office on an average of once a week or less, and have a DBM approved commute exemption (see Section 3.4) are not required to record commute miles. Commute miles includes the mileage from your home to your first work location of the day and the mileage from your last work location of the day to your home.

As provided in Section 2.4, Elected Officials, Department Secretaries, and heads of independent Agencies are exempt from this requirement.

3.4 COMMUTE EXEMPTIONS

In a limited number of situations, upon request by the Agency Head, an assigned driver may be exempted by DBM from paying the commute charge. These exemptions are limited to situations in which (1) the assigned driver does not commute in the vehicle, (2) the vehicle is assigned to field personnel who report to the assigned office one day or less per week, (3) the assigned driver is a law enforcement officer, or (4) the assigned driver responds to emergency situations and requires highly specialized equipment to perform the driver's job. The decision to grant an exemption rests with DBM. Questions concerning eligibility for an exemption should be directed to the Agency fleet manager.

Assigned drivers who are eligible for an exemption shall complete a Certification of Exemption, State Motor Vehicle Commute Charge MFOMS-18, have the form signed by their supervisor, and submit the form to the Agency fleet manager for review and processing. The Agency fleet manager will provide this form.

3.5 TAX LIABILITY

Every individual who commutes in a State-owned or leased motor vehicle is required to report use of the vehicle as a fringe benefit for income tax purposes. **This requirement applies to authorized drivers who pay the State commute charge as well as those who the State exempts from paying the commute charge.** The exception is those employees who commute on an occasional or infrequent basis (once a month or less) or commute in a qualified non-personal use vehicle as defined by the IRS. In both cases, exceptions must be determined by the agency.

Each individual is personally responsible to the IRS for the submission of accurate information to his

employer. The taxable fringe benefit will be calculated based on IRS guidelines, and reported on an Auto Fringe Value Calculation/Reporting Form (a sample reporting form is included as Appendix 4). For certain reporting categories, these benefits include all capital costs and expenses incidental to the operation of the motor vehicle, including all salaries, fringe benefits and other expenses of a chauffeur less the amount paid to the State for use of a vehicle. The Agency will notify authorized drivers annually of reporting requirements and provide forms and instructions.

More information concerning the fringe benefit program is available on the DBM website at:

<http://dbm.maryland.gov/Pages/VehicleFringeBenefitReporting.aspx>

4. VEHICLE MODIFICATION

Modifications to State vehicles for personal reasons are prohibited. If necessary for official State business, the Agency may approve the modification of a State vehicle. Bumper stickers are prohibited.

5. FUEL

State vehicles shall be fueled from the Statewide Automated Fuel Dispensing and Management System except for emergencies or rare and unusual instances when such use is not possible. When available, alternative fuel shall be used in bi-fuel and flexible-fuel vehicles.

6. MAINTENANCE AND REPAIRS

6.1 DRIVER'S RESPONSIBILITY

Authorized drivers who are assigned a vehicle share responsibility with the Agency fleet manager for assuring that their assigned vehicle is properly maintained. Authorized drivers should discuss the Agency maintenance requirements, procedures, and the driver's specific responsibilities for maintenance with the Agency fleet manager or their designee.

Authorized drivers of pool vehicles are responsible for reporting observed mechanical problems to the Agency fleet manager or their designee.

6.2 FLEET MAINTENANCE AND REPAIR SERVICES AGREEMENT

Drivers shall use the existing contract for maintenance and repair services for all sedans, light trucks and vans with the exception of:

- Agencies having in-house maintenance and repair capabilities.
- Emergency conditions when the vehicle cannot be safely driven or towed to a network vendor.
- An Agency has been exempted in writing by DBM.

Each State vehicle that is enrolled in the Fleet Maintenance and Repair Services Agreement will have a Maintenance Service Coupon book. The Maintenance Service Coupon(s) may only be used for expenses

related to that State vehicle. Under no circumstance are these coupon(s) to be left in the custody of maintenance facility attendants.

7. REIMBURSEMENT FOR PARKING AND TOLLS

State employees shall be reimbursed for legitimate and documented parking and toll expenses incurred while conducting State business.

APPENDICES

**ACKNOWLEDGEMENT STATEMENT
POLICIES AND PROCEDURES FOR DRIVERS OF STATE VEHICLES**

TO: ALL DRIVERS OF STATE VEHICLES

Drivers are required to read the Policies and Procedures for Drivers of State Vehicles and sign this Acknowledgement Statement at the bottom of the page. The signed statement must be retained by the Agency Fleet Manager.

Only drivers who have signed this Acknowledgement Statement may operate state vehicles.

ACKNOWLEDGEMENT

The undersigned certifies he/she has read the Policies and Procedures for Drivers of State Vehicles.

I am aware that a violation of these rules would be cause for disciplinary action.

SIGNED: _____

NAME: _____

AGENCY: _____

CLASSIFICATION: _____

DATE: _____

(Please print or type all information)

[illegible]

GENERAL GUIDELINES WHEN INVOLVED IN AN ACCIDENT

1. Stop as near to the scene as is safely practical; avoid blocking traffic and otherwise minimize potential danger to others.
2. If necessary, notify appropriate emergency medical and/or fire rescue personnel.
3. Make every effort to have a police officer respond to the accident scene. The officer must be requested to make a formal report. Failure to follow this procedure must be fully explained in writing (Attach to AUTO LOSS REPORT).
4. Provide identification to involved parties.
5. Protect State property.
6. Cooperate with police and emergency medical personnel.
7. DO NOT admit negligence or fault or offer settlements.
8. Obtain names and addresses of witnesses and all involved parties.
9. Record the license plate numbers of all involved vehicles.
10. Obtain driver's license and insurance information from other involved parties.
11. Notify appropriate Agency representative as soon as possible.
12. Accidents involving evacuation by emergency medical personnel shall be reported immediately by telephone to the Insurance Division of the State Treasurer's Office at 410-260-7684.
13. The State Agency should advise the claimant/attorney to contact the Insurance Division of the State Treasurer's Office with questions.
14. The Insurance Division personnel will instruct the claimant/attorney as to the proper procedure for filing a formal notice of claim.
MAKE NO OTHER COMMENTS. VOLUNTEER NO INFORMATION.
15. Forward a copy of any correspondence received relative to a claim to the Insurance Division of the State Treasurer's Office at 80 Calvert Street, Room 400, Annapolis, MD 21401.

AUTO FRINGE VALUE CALCULATION/REPORTING FORM

Last Name	First Name	M.I.	Work Phone
Social Security No.	Agency Code	Auto Fringe Value	
SECTION I: COMMUTE RULE VALUATION METHOD			
1. Number of one-way commute trips from home to office or first work location of the day during the reporting period.			
2. Number of one-way commute trips to home from office or last work location of the day during the reporting period.			
3. Add lines 1 and 2 and enter sum here.			
4. Multiply line 3 total by \$1.50 and enter result here and on line 19.			
SECTION II: CENTS PER MILE RULE VALUATION METHOD			
5. Total number of commute/personal miles driven November 1 – December 31, 2008.			
6. Total number of commute/personal miles driven after January 1 – October 31, 2009.			
7. Multiply line 5 by (current POV Reimbursement Rate i.e. \$0.585) and enter here.			
8. Multiply line 6 by (current POV Reimbursement Rate i.e. \$0.550) and enter here.			
9. Enter salary and fringe benefits paid by the State for a State-provided chauffeur.			
10. Add lines 7, 8, and 9 and enter sum here and on line 20.			
SECTION III: LEASE VALUE RULE VALUATION METHOD			
11. Annual lease value amount (from IRS table).			
12. Total number of miles driven.			
13. Total number of commute/personal use miles.			
14. Percentage of personal to total miles (line 13 divided by line 12).			
15. Multiply line 11 by line 14 and enter here.			
16. Employer paid fuel – multiply line 13 by 5.5 cents and enter here.			
17. Enter salary and fringe benefits paid by the State for a State-provided chauffeur.			
18. Add line 15, 16 and 17 and enter sum here and on line 21.			
SECTION IV: TOTAL AUTO FRINGE VALUE			
19. Enter total from SECTION I, line 4 here.			
20. Enter total from SECTION II, line 10 here.			
21. Enter total from SECTION III, line 18 here.			
22. Enter total commute payments to State for use of a State vehicle.			
23. Subtract line 22 from line 19, 20, or 21; enter here and in section marked "AUTO FRINGE VALUE" above (do not enter value less than 0).			

SAMPLE

The information on this sheet is furnished by me and is true and correct to the best of my knowledge and belief.

Signature: _____

Date: _____

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Maryland Alcohol, Tobacco, and Cannabis Commission

Maryland Alcohol and Tobacco Commission Policy Manual

Individual Cash Advance Update_3-12-2024.pdf



AGENCY INDIVIDUAL CASH ADVANCES (ICA)

Agents will generally be issued an “Individual Cash Advance” (ICA) to be used as a resource for the following purposes:

1. Funds to make undercover purchases of evidence to advance an investigation.
2. Funds to purchase required items needed to perform essential duties or advance an investigation in exigent circumstances when other fund sources aren’t practical on short notice.
3. Funds to pay a Confidential Informant.

An ICA made for an Agent/employee is synonymous with being issued a piece of equipment required to perform your duties safely, effectively, and efficiently. An ICA serves as a personal petty cash account which is a resource to carry out your duties. As the holder of an ICA, you are responsible for maintaining those funds.

An issued ICA can be called back by your supervisor at any time for any reason. Cash on hand from your ICA must be maintained separate from your personal financial resources and co-mingling of those funds is prohibited. All Agency ICAs may be inspected monthly.

A critical factor in maintaining a full balance in your ICA is prompt submissions for reimbursement to the agency office of Essential Shared Services. The reimbursement of expenses to ICA funds will be delivered through your bi-weekly paycheck, separate from your earnings and not subject to any withholding.

Agents/employees issued an ICA are required to do the following:

1. Maintain a “Cash Journal” that captures the following information:
 - The date of all transactions
 - A description of each transaction to include numeric identifiers such as ATCC Case numbers, Confidential Informant numbers.
 - Deposits into the fund
 - Expenditures from the fund
 - A running balance of funds on hand
2. Obtain approval from your supervisor to expend funds from your ICA advance for the purchase of a perceived required item needed to perform essential duties or advance an investigation.

I, XXXXXXXXXXXXXXXXXXXX, acknowledge that I’ve read, understand, and accept the policy regarding the Agency ICA.

Signature of Employee accepting ICA

Date of signature

Maryland Alcohol, Tobacco, and Cannabis Commission

Maryland Alcohol and Tobacco Commission Policy Manual

ATC Sanctity of Life form.pdf

Wes Moore
Governor

Aruna K. Miller
Lt. Governor

Jeffery A. Kelly
Executive Director



Maryland

Alcohol, Tobacco, and Cannabis Commission

Maryland Certified Police Officer
Sanctity of Life Pledge
Public Safety Article 3-524(c)
[SB 71, 2021 Legislative Session]

I, _____, the undersigned certified police officer, as defined by PSA 3-201, in accordance with my assigned duties, my oath as a police officer and Maryland Public Safety Article Section 3-524(c), do hereby pledge that at all times, whether on duty or off duty, I will respect every human life and act with compassion towards others.

Signature

Date

Print Name & I.D.#

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