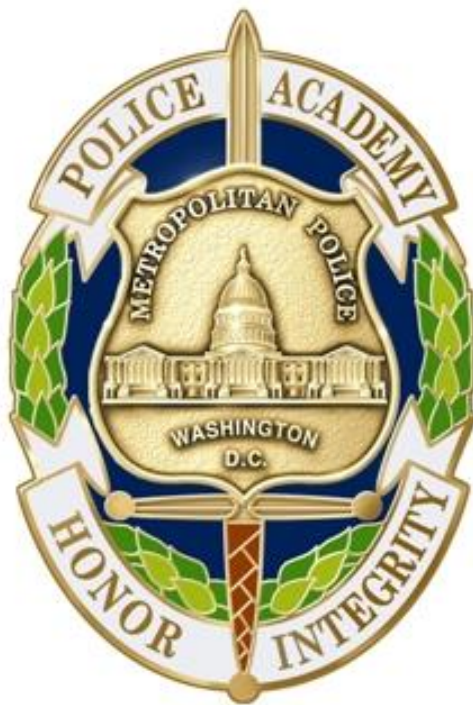


# Metropolitan Police Academy



## 12.3 Traffic Stops

November 6, 2023

### 12.3.1 Outline the legal requirements for conducting traffic stops

Traffic stops are an important function of a police officer's duties and are commonly conducted by officers in the field for a variety of reasons. These stops, like all types of police and citizen encounters, must be based upon a level of proof and be reasonably justified so as to not violate the constitutional rights of the drivers and passengers being stopped.

#### Justification for the Stop

All traffic stops must be based upon one the following forms of justification:

- **Traffic/Vehicle Infraction**  
The most common of traffic stops involve a traffic violation observed by an officer which results in the traffic stop. This can be a moving violation (e.g., Stop Sign Passing, Red Light Passing, Distracted Driver Act, etc.) or a vehicle defect (e.g., No Lights Running, Expired Tags, Covered Tags, etc.). The justification for these stops is probable cause for the traffic/vehicle infraction.
- **Reasonable Suspicion**  
When an officer has articulable facts that support a reasonable belief that criminal activity is occurring and that the vehicle is involved, the officer may stop the vehicle to investigate further. The stop may continue as long as the officer diligently investigates to confirm or dispel his or her suspicion that criminal activity is occurring and the occupant(s) of the vehicle are involved.
- **Probable Cause**  
Where an officer has probable cause to believe that a person in a vehicle has committed a crime or probable cause to believe that a vehicle contains evidence of a crime or contraband, the officer may stop the vehicle to arrest the occupant and/or to search the vehicle.

Numerous legal precedents and departmental policies exist and serve to guide police officers in conducting stops of vehicles in Washington, DC. The following cases provide important guidance for conducting lawful traffic stops.

- ***Delaware v. Prouse*, 440 U.S. 648 (1979)**  
A patrol officer conducted a traffic stop of an automobile and seized marijuana that was visible in plain view on the car floor. The defendant was indicted for illegal possession of a controlled substance. At a hearing to suppress the marijuana, the officer testified that prior to stopping the vehicle he did not observe any traffic violation, equipment violation, or suspicious activity. The officer testified that he made the stop only in order to check the operator's driver's license and the car's registration. The trial court granted the motion to suppress, finding the stop and detention to have been a violation of the Fourth Amendment. The US Supreme Court affirmed, finding that:

except in those situations in which there is at least articulable and reasonable suspicion that a motorist is unlicensed or that an automobile is not registered, or that either the vehicle or an occupant is otherwise subject to seizure for violation of law, stopping an automobile and detaining the driver in order to check his driver's license and the registration of the automobile are unreasonable under the Fourth Amendment. This holding does not preclude the state of Delaware and

other States from developing methods for spot checks that involve less intrusion or that do not involve the unconstrained exercise of discretions. Question of all oncoming traffic at roadblock-type stops is one possible alternative. We hold only that persons in automobiles on public roadways may not for that reason alone have their travel and privacy interfered with at the unbridled discretion of police officers.

In other words, a random stop of a motorist in the absence of specific articulable facts which justify the stop by indicating a reasonable suspicion that a violation of the law has occurred is constitutionally impermissible. This case thus demonstrates the legal requirements for conducting a traffic stop.

MPD periodically employs safety compliance checkpoints and impaired driver checkpoints which involve a systematic and standardized method of conducting stops for specific purposes. See **GO-OPS-308.03 (Traffic Safety Compliance Checkpoints)**.

- ***Whren v. United States, 517 U.S. 806 (1996)***

MPD plain clothes VICE officers were patrolling a high drug area in an unmarked police car when they drove past a truck with young occupants at a stop sign. The driver was looking down towards the passenger's lap. The truck remained stopped at the sign for what seemed like an unusually long time (more than 20 seconds). The officers made a U-turn to travel back towards the truck, at which time the truck suddenly turned right without signaling and drove at an unreasonable speed away from the officers. The officers caught up and conducted a traffic stop. Upon their approach, an officer immediately observed two (2) bags of crack cocaine in the defendant's hands. Several other illegal drugs were recovered from the vehicle and the occupants were arrested on various federal drug charges.

The legality of the stop was challenged during a pre-trial hearing, with defense counsel arguing that the stop was not justified because no reasonable suspicion or probable cause existed to believe that the defendants were engaged in illegal drug activity at the time. The US Supreme Court affirmed the convictions, concluding that there was nothing to demonstrate that the actions of the officers were contrary to a normal traffic stop. Regardless of whether a police officer subjectively believes that the occupants of an automobile may be engaging in some other illegal behavior, a traffic stop is permissible as long as a reasonable officer in the same circumstances could have stopped the car for the suspected traffic violation.

This case demonstrates how a traffic violation and subsequent stop can lead to the discovery of various other offenses. Additionally, it provides guidance on pre-textual stops on vehicles suspected of something more than just a traffic violation. In this case, because the stop was based upon a traffic violation and therefore was justified, making the subsequent seizure of illegal drugs and arrests valid despite the fact that the stop was not made based upon suspicion of drug possession.

- ***Pennsylvania v. Mimms, 434 U.S. 106 (1977)***

While on routine patrol, two Philadelphia police officers observed the defendant driving an automobile with an expired license plate. The officers stopped the vehicle for the purpose of issuing a traffic ticket. The officers approached and asked the defendant to step out of the car and produce his driver's license. The defendant stood up out of the vehicle, whereupon one officer

noticed a large bulge under his jacket. Fearing that the bulge might be a weapon, the officer frisked the defendant and discovered a loaded revolver in his waistband. The defendant was immediately arrested and subsequently indicted for carrying a concealed weapon and for unlawfully carrying a firearm without a license. His motion to suppress the revolver as a Fourth Amendment violation was denied, and after a trial at which the revolver was introduced into evidence, he was convicted on both counts.

The issue raised by this case involves the officer's authority to order the driver to exit his vehicle. The US Supreme Court found that the traffic stop was justified and conducted after the officer observed a violation. Further, the frisk was justified based upon the bulge observed in the defendant's waistband. However, the bulge was not noticed until the officer instructed the defendant to stand and exit his vehicle. Additionally, he was ordered out of the vehicle not due to any reasonable suspicion that he was armed or dangerous, but rather as a precautionary measure to protect the officer's safety (he commonly ordered drivers to exit their cars). The Supreme Court determined the officer's instruction to exit the car was a minimal and reasonable intrusion upon the driver's personal liberty. Furthermore, the officer's decision to pat down the defendant once a bulge was observed was found to be lawful.

As a result of this decision, **police officers conducting traffic stops are authorized to order the driver of a stopped vehicle to exit the vehicle while he or she is briefly detained for the investigation of the traffic violation. The police can do so for their own safety without regard to whether there is reasonable suspicion of criminal activity.**

- ***Maryland v. Wilson*, 519 U.S. 408 (1997)**

A Maryland state trooper observed a passenger car driving southbound on I-95 in Baltimore County at a speed of sixty-four (64) miles per hour. The posted speed limit was fifty-five (55) miles per hour, and the car had no regular license plate. Instead, there was a torn piece of paper reading "Enterprise Rent A Car" dangling off of the back of the vehicle. The trooper activated his lights and sirens, signaling the car to pull over, but it continued driving for another mile and a half before stopping. During the pursuit, the trooper noticed that there were three occupants in the vehicle, and that the two passengers were repeatedly ducking below sight level, then reappearing, and looking back at the trooper several times. As the trooper approached the vehicle, the driver exited and approached the trooper who ordered him back into the vehicle to retrieve the rental documents. The trooper noticed that the driver was trembling and appeared extremely nervous. Furthermore, he observed that the front seat passenger was sweating and also appeared extremely nervous. The trooper ordered the front passenger out of the vehicle. While exiting the vehicle, a quantity of crack cocaine fell to the ground and the passenger was subsequently arrested for possession of cocaine. The evidence to support this charge was challenged on the grounds that ordering the passenger to exit the vehicle was a violation of his Fourth Amendment protections.

This case involves the question of whether the ruling in *Pennsylvania v. Mimms* extends to passengers as well as drivers. The US Supreme Court ruled that:

There is probable cause to believe that the driver has committed a minor vehicular offense, but there is no such reason to stop or detain the passengers.

But as a practical matter, the passengers are already stopped by virtue of the stop of the vehicle. The only change in their circumstances which will result from ordering them out of the car is that they will be outside of, rather than inside of, the stopped car. ... We therefore hold that an officer making a traffic stop may order passengers to get out of the car pending completion of the stop.

Due to the increased number of possible sources of harm to an officer during a stop in which the vehicle is occupied by more than one person, regardless of oncoming traffic, **ordering a passenger to exit the vehicle is reasonable and justified.**

### **12.3.2 Describe Departmental Policies for Vehicle Pursuits**

As officers we must ensure that no one in the custody of law enforcement is deprived of any rights protected by the constitution. Officers have a duty to act, intercede, and subsequently report misconduct. *You must take an active role in the intervention of wrongful conduct.*

For example: You are working a 10-4 assignment and your partner attempts to conduct a traffic stop for a wanted vehicle. Your partner activates the emergency equipment but the vehicle of interest does not pull over right away, so you and your partner follow and attempt to stop the vehicle for two more blocks. The vehicle starts to accelerate away; your partner accelerates to keep up. Your partner advises the dispatcher that you are pursuing and the Watch Commander directs your unit to disengage and that a pursuit is not authorized. Your partner is not disengaging and says, "let's just chase for a bit and see if they bailout." What should you do?

Even though you are the passenger, you have a responsibility to speak up and reaffirm to your partner that the pursuit should be discontinued. Should your partner fail to do so, you should notify a supervisor. In addition to facing potential discipline and civil and criminal liability, engaging in an unauthorized pursuit is dangerous and puts lives at risk.

#### **Vehicular Pursuit**

A vehicle pursuit is defined as the operation of a pursuit vehicle in a manner that is not consistent with the posted speed limit or other applicable traffic regulations in an attempt to apprehend a suspect who is eluding apprehension while operating a motor vehicle

#### **Primary Unit**

The primary unit is the first unit that initiates a pursuit or any unit that assumes control of the pursuit. This is also called the lead vehicle in the pursuit. If air support is used, it normally relieves the primary unit from the responsibility of broadcasting the pursuit over the radio.

#### **Secondary Unit**

A secondary unit is a police unit that becomes involved as a backup to the primary unit.

Members shall not engage in a vehicle pursuit of a suspect motor vehicle unless the member actually and reasonably believes:

- a. The fleeing suspect has committed or attempted to commit a crime of violence or poses an imminent threat of death or serious bodily injury to another person;
- b. The vehicle pursuit is immediately necessary to protect another person, other than the fleeing suspect or suspects, from the threat of serious bodily injury or death and under the totality of circumstances not likely to cause death or serious bodily injury to any person; **and**
- c. All other options have been exhausted or do not reasonably lend themselves to the circumstances. Examples may include the ability to safely identify and apprehend suspects without pursuit or the potential for Air Support Unit tracking in lieu of pursuit.

Imminent threat is defined as a situation or condition in which it can be reasonably concluded that is about to lead to death or serious bodily injury. Determining whether an imminent threat exists requires a reasonable belief that the member or others were in danger, the danger was immediate and present rather than simply impending, there was no time for an evasive action, and the member reasonably believed that his or her actions were necessary to protect him, her, or others.

Members who initiate a vehicle pursuit shall exercise all caution and operate their vehicle in a safe manner while engaged in the pursuit. As the pursuit progresses, pursuing units and monitoring officials shall continually evaluate and assess the actual conditions of the pursuit in deciding whether to continue or discontinue the vehicle pursuit. Members shall immediately terminate a pursuit when ordered by a department official.

In a grand jury, criminal, delinquency, or civil proceeding where a member's use of vehicle pursuit is a material issue, the trier of fact will consider the reasonableness of the member's belief and actions from the perspective of a reasonable law enforcement officer and the totality of the circumstances, which shall include:

#### **Totality of Circumstances**

- a. Whether the identity of the suspect was known;
- b. Whether the suspect could have been apprehended at a later time;
- c. The likelihood of a person, including the suspect motor vehicle's occupants, being endangered by the vehicle pursuit, including the type of area, the time of day, the amount of vehicle and pedestrian traffic, and the speed of the vehicle pursuit;
- d. The availability of other means to apprehend or track the fleeing suspect, such as helicopters;

- e. Whether circumstances arose during the vehicle pursuit that rendered the pursuit futile or would have required the vehicle pursuit to continue for an unreasonable time or distance, including the distance between the pursuing vehicle(s) and the fleeing motor vehicle and whether visual contact with the suspect motor vehicle was lost or the suspect motor vehicle's location was no longer known;
- f. Whether the member's pursuit vehicle sustained damage or a mechanical failure that rendered it unsafe to operate;
- g. Whether the member was directed to terminate the pursuit by the monitoring official or other department official;
- h. The member's training and experience;
- i. Whether anyone in the suspect motor vehicle appeared to possess, either on their person or in a location where it is readily available, a dangerous weapon and was afforded an opportunity to comply with an order to surrender any suspected dangerous weapons;
- j. Whether the member or another law enforcement officer in close proximity, engaged in reasonable de-escalation measures;
- k. Whether any conduct by the member prior to the vehicle pursuit unreasonably increased the risk of a confrontation resulting in a vehicle pursuit; and
- l. Whether the member made all reasonable efforts to prevent harm, including abandoning efforts to apprehend the suspect.

The use of ramming is prohibited. The only exception to this rule is in cases where deadly force is justified. Any pursuit involving ramming requires immediate notification to the Internal Affairs Division (IAD) and shall be investigated as a use of deadly use of force pursuant to **GO-RAR-901.07 (Use of Force)**.

The use of roadblocks is prohibited. The only exception to this rule is in cases involving imminent threat of death or serious bodily injury, when no other options are feasible. Any pursuit involving the use of a roadblock requires immediate IAD notification and shall be investigated as a serious use of force pursuant to **GO-RAR-901.07 (Use of Force)**.

Boxing in vehicles in motion, caravanning, deploying a tire deflation device, and paralleling are prohibited. Any pursuit involving these actions requires immediate IAD notification and shall be investigated as a serious use of force pursuant to **GO-RAR-901.07 (Use of Force)**.

Blocking stationary vehicles is permitted to protect the public from serious bodily injury or death (e.g., armed gunman in a stationary vehicle). When feasible, the Emergency Response Team (ERT) shall be notified to assist with this technique.

MPD members **shall not** participate in a vehicle pursuit initiated by other law enforcement agencies operating within the District of Columbia or a vehicle pursuit initiated by officers of outside jurisdictions, which enters or terminates in the District of Columbia. This does not preclude members from assisting in a non-pursuit support capacity during the pursuit and at the termination point. It also does not prohibit members from engaging in a pursuit which otherwise qualifies under this policy.

Members shall not engage in a pursuit when transporting a prisoner or when a civilian (e.g., ride along) is in the vehicle

### **Fleeing Suspects**

When a fleeing subject has committed an offense for which a vehicle pursuit is not authorized, the member shall:

- Provide a description of the vehicle and attempt to obtain the tag number.
- Attempt to obtain a description of the vehicle's operator.
- Contact the dispatcher and request that he or she broadcast a lookout to surrounding jurisdictions to which the fleeing offender may be proceeding.
- Conduct an investigation of the incident and obtain a warrant so that the offender can be apprehended and prosecuted

Members **shall not** pursue a vehicle for the sole purpose of affecting a stop for a traffic violation.

When a fleeing subject has committed an offense for which a vehicle pursuit is not authorized, members are permitted to pursue suspects on foot or on a mountain bike.

### **Vehicle Pursuit Operations**

Once a vehicle pursuit has been initiated, members shall observe the following procedures:

- The primary unit shall immediately notify the Office of Unified Communications (OUC) dispatcher via the radio zone where the pursuit was initiated and articulate the reason for the pursuit.
- The OUC dispatcher will:
  - Announce that a pursuit is taking place and that the watch commander or other monitoring official (ranked lieutenant or above from the originating district) is needed to monitor the pursuit.



- Assign no more than two (2) additional department vehicles to join the pursuit - a secondary unit and a supervisor from the organizational element to which the pursuit vehicles are assigned. The dispatcher will voice a command to the effect that no other vehicles shall participate in the pursuit unless specifically authorized to do so by the watch commander.
- Record all incoming information relating to the pursuit and perform relevant records and vehicle checks in an attempt to identify the owner and or the violator.
- Determine whether a helicopter is available to respond. If airborne assistance becomes available, the helicopter shall only assist the primary and secondary units with the fleeing vehicle's direction of travel.
- Notify other mobile units as necessary of the pursuit in progress.
- Upon notification of the pursuit, the watch commander or monitoring official shall voice over the radio permission to pursue or direct pursuing units to terminate the pursuit. The watch commander or monitoring official shall continuously monitor radio transmissions to determine whether the pursuit should be continued or terminated and to approve the assignment of additional backup units to assist the primary and secondary units, when necessary. (**GO-OPS-301.03 Vehicle Pursuits**, page 4)
- Only the primary, secondary, and supervisory units are permitted to engage in a pursuit unless the watch commander or monitoring official allows additional units to assist in the pursuit.
- A pursuing unit shall maintain constant communication with the dispatcher as the pursuit progresses and provide the dispatcher with the license plate number, suspected crime(s) and location, suspect's direction of travel, suspect's vehicle information, number of vehicle occupants, any observed weapons, any available suspect descriptions, and pursuing unit's approximate speed and direction of travel.
- Members shall operate department vehicles as emergency vehicles when engaged in pursuits and:
  - Activate all emergency equipment, turn on the headlights regardless of the time of day, and ensure that seat belts are securely fastened.
  - Open both front windows so that the driver can hear other units responding to the area and to avoid a collision.
  - When operating as a primary pursuit unit, use the wail position on the electronic siren selector and use the yelp position when operating as a secondary pursuit unit.
  - Not operate department vehicles at speeds where they cannot control the vehicle, thereby endangering lives. Pursuing members shall monitor their speed and only travel at a speed that is justifiable based on the specific circumstances and conditions.

- Maintain a safe distance between their vehicle and the fleeing vehicle, to ensure that there is enough reaction time, should the fleeing vehicle suddenly turn or brake.
- Comply with the following traffic regulations:
  - When approaching an intersection controlled by electric signal devices, the pursuing unit(s) shall ensure an intersection is clear before entering the intersection when facing a red signal, slow to the maximum legal speed limit when a green signal or a flashing yellow signal is displayed, and ensure the intersection is clear before entering an intersection where four-way pedestrian walk signals are displayed.
  - When approaching an intersection controlled by a stop sign, the pursuing unit(s) shall ensure an intersection is clear before entering the intersection.
  - When approaching an uncontrolled intersection or an intersection controlled by yield signs, slow to the maximum legal speed limit before entering the intersection and comply with all other requirements applicable to uncontrolled intersections or intersections controlled by yield signs.
- When operating a motorcycle equipped as an authorized emergency vehicle, a patrol wagon that is not transporting prisoners, or an unmarked vehicle equipped with emergency devices, members may initiate and continue a vehicle pursuit until a marked unit joins the pursuit, at which time members shall immediately discontinue their participation, continue to monitor the pursuit, and proceed to the termination point with appropriate authorization to process any necessary reports and arrests.
- When not in uniform or operating an unmarked vehicle, take enforcement action only after requesting the assistance of a marked vehicle. Once the marked vehicle has arrived on the scene, the pursuit shall be discontinued.
- The primary unit shall immediately notify the OUC dispatcher when the pursuit is entering another jurisdiction. The watch commander or monitoring official shall approve or disapprove pursuits that enter into another jurisdiction and ensure that units are in compliance with the law.
- In cases involving crashes, the secondary unit will disengage from the pursuit to provide medical assistance and take reports of injuries and property damage. The watch commander or monitoring official shall respond to all scenes where injury and property damage occur as a result of the vehicle pursuit and ensure that the Major Crash Unit and Internal Affairs Division (IAD) are notified to respond in cases where a pursuit involves a fatality.
- The Major Crash Unit shall be the primary investigative unit in vehicle pursuits involving a fatality that occurs in the District of Columbia. The investigation of vehicle pursuits involving MPD members where the fatality occurs outside of the District of Columbia shall be handled by the local law enforcement agency. IAD shall conduct administrative investigations of all vehicle pursuits that involve a fatality regardless of where the fatality occurred.

### **Pursuit Oversight and Termination**

The pursuit shall be repeatedly assessed to determine whether it should be continued, taking into account the associated risk it presents to the member and the public.

A decision to continue or terminate a pursuit may be made by the primary unit, watch commander, or monitoring official. This does not replace the obligation to adhere to a lawful order given by an official.

Conditions under which a vehicle pursuit shall be terminated include, but are not limited to:

- When it becomes apparent that the vehicle pursuit could lead to unnecessary property damage, injury to persons or members of the department.
- The pursuit is in close proximity to schools and hospitals and other locations.
- When the distance between the pursuing member and the violator's vehicle is so great that the pursuing member loses sight of the violator and it becomes futile to continue the pursuit.
- The violator is identified so that a warrant can be obtained for his or her arrest and failure to apprehend does not pose an immediate threat of death or serious injury to another person.
- When the time of day and location are heavy with vehicular and pedestrian traffic.
- At any point that the circumstances of the pursuit change in such a way that the pursuit is occurring in violation of the General Order.

When it is apparent that a vehicle pursuit should be terminated, the member shall notify the dispatcher and broadcast the suspect's direction and method of travel. If known, a description of the suspect, a lookout for the vehicle, including the tag number and its description, shall be included in the broadcast. Should the vehicle be subsequently located in a reasonable period of time, a member may resume the pursuit, as long as the pursuit meets the requirements of **GO-OPS-301.03 (Vehicle Pursuits)**.

The watch commander or monitoring official shall secure the location where the pursuit terminates in order to assist with the preliminary investigation and in the event the incident turns into a foot or bicycle pursuit.

### **Pursuits into Outside Jurisdictions from the District of Columbia**

The Code of Maryland § 2-305 (Authority of officers of other states to arrest in this state) and Code of Virginia § 19.2-79 (Arrests by officers of other states of the United States) provide that law enforcement officers may enter in fresh pursuit in order to arrest a person on the grounds that he or she is believed to have committed a felony in the pursuing officer's jurisdiction and the pursuing member has the power to arrest and hold subjects in custody. Apprehended suspects shall be taken before a judge without unnecessary delay for a hearing to determine the lawfulness of the arrest.

In fresh pursuit situations when a pursuit enters another jurisdiction, a pursuing member shall notify the dispatcher and request authorization from the watch commander to proceed into the adjoining jurisdiction. OUC will notify the neighboring jurisdiction of the incoming pursuit.

If pursuit authorization is granted, as soon as possible, the member shall allow the pursuing unit from the outside jurisdiction to assume responsibility for the pursuit.

The OUC supervisor will monitor the pursuit and the OUC dispatcher will notify the outside jurisdiction dispatcher that the pursuit has crossed their boundary and, for maintaining liaison, via the Police Mutual Aid Radio System (PMARS) with any jurisdiction that is involved or may become involved.

If the situation culminates in the apprehension of a fleeing felon, the initiating MPD member shall place the suspect in the custody of the officer from the outside jurisdiction as a fugitive from justice and inform that officer of the crime the suspect will be charged with in the District of Columbia and the intent to request extradition of the suspect.

Felons apprehended in Virginia, Maryland, or any other state shall not be returned to the District of Columbia without being processed through the criminal justice system of the state where he or she was apprehended, in accordance with the legal procedures applicable to that jurisdiction. This requirement does not apply to deputized US Marshal's Service Capital Area Regional Fugitive Task Force (CARFTF) members who are able to sign extradition waivers.

If a felon wants to voluntarily return to the District of Columbia, he or she shall be taken before a local court judge or justice of the peace by the arresting officer from the outside jurisdiction for the purpose of executing a waiver. When the felon does not want to return voluntarily, members shall place the felon in the custody of the officer from the outside jurisdiction and apply for a warrant in the District of Columbia.

The MPD member shall contact the US Attorney's Office (USAO) in the District of Columbia to begin the extradition process. Once authorization has been granted, members shall notify the holding agency of the outside jurisdiction by:

- Preparing a teletype message to be forwarded to the arresting jurisdiction, including the name and description of the defendant, date, charge, and approved arrest warrant to hold the defendant.
- Providing the assistant USA with the arrest affidavit. Upon approval of the warrant, the assistant USA will handle all further matters concerning the return of the wanted subject.

### **Pursuits into the District of Columbia from Outside Jurisdictions**

A law enforcement officer from another jurisdiction may enter the District of Columbia in pursuit in order to arrest a person on the grounds that he or she is believed to have committed a felony in the pursuing officer's jurisdiction. The pursuing officer has the same authority to arrest the person and hold him or her in custody as MPD members.

When a member of a law enforcement agency, other than MPD initiates a vehicle pursuit, the OUC dispatcher will:

- Advise mobile units, as appropriate, of the general direction and progress of the pursuit, as well as any other pertinent information;

- If the pursuit terminates in the District of Columbia, designate two mobile units and one supervisory vehicle to respond to the termination point to assist the pursuing law enforcement officer with the apprehension (**GO-OPS-301.03 – Vehicle Pursuits**, page 8); and
- If the pursued vehicle is lost, broadcast the necessary lookout information to assist other mobile units in locating the vehicle and possible suspects.

In cases where a suspect being pursued by an officer from an outside jurisdiction is apprehended, the suspect may be charged with any crimes committed in the District of Columbia regardless of other actions taken in the case.

MPD members who respond to assist an officer from an outside jurisdiction and discover that the crime for which the suspect was pursued was not a felony shall assist the law enforcement officer pursuant to **GO-SPT-304.10 (Field Contacts, Stops, and Protective Pat Downs)**. If there is no probable cause to arrest the suspect, the suspect shall be permitted to leave.

The arrested subject shall be taken before a DC Superior Court judge without unnecessary delay for a hearing to determine the lawfulness of the arrest. Persons arrested in the District of Columbia, whether by an MPD member or an officer of another jurisdiction, shall not be permitted to be removed from this jurisdiction without being extradited through the DC Superior Court. This requirement does not apply to CARFTF members who are able to sign extradition waivers.

Members apprehending a felony suspect in a fresh pursuit shall process the arrest in the same manner as any other fugitive from justice arrest and enter the name of the outside agency, classification of the crime associated with the pursuit, and outside agency's case number on the arrest report. In fresh pursuit situations, the outside law enforcement agency will not have had enough time to apply for and receive an arrest warrant so a warrant number will not be available. The case number generated when dispatching a radio run shall be used for reference purposes in that situation.

### **Pursuit Investigations**

The facts and circumstances of **all** vehicle pursuits involving MPD vehicles shall be investigated to determine whether the pursuit was conducted in compliance with department policy.

The watch commander or monitoring official shall gather the facts from all the members involved in the pursuit as soon as practical at the end of each pursuit and submit the completed PD Form 845 (Vehicle Pursuit Report) to the element commanding official by the end of the shift.

In all cases involving deadly force, serious use of force, or any force indicating potential criminal conduct, the involved members shall not be compelled to make a statement (including interviews that are recorded by video or audio) until one of the following occurs:

- a. The United States Attorney's Office (USAO) has issued a written declination; or
- b. The element watch commander receives approval from the on-call IAD official (the rank of lieutenant or above) to issue a reverse *Garrity* warning.

Upon completion, the watch commander shall submit the PD Form 845 directly to the chief of police at cop.admin@dc.gov with copies to the Internal Affairs Bureau (IAB) assistant chief at iab@dc.gov, the involved member's chain of command officials, and the official's administrative captain. The watch commander or monitoring official shall also ensure that all completed PD Forms 845 are attached to the PD Form 150 (Watch Commander's Report) prior the end of the watch commander's shift.

An IAD official (the rank of captain or above) shall determine whether IAD or the pursuing member's chain of command is responsible for investigating the pursuit. In chain of command investigations, the element commanding official shall assign a non-involved element official, the rank of captain or above to conduct an investigation into the facts and circumstances.

### **12.3.3 Analyze strategies and tactics that maximize officer safety while conducting traffic stops**

Numerous officers are killed each year while conducting traffic stops. Various tactics and strategies have been developed to minimize the dangers involved in conducting traffic stops, detect signs of danger, and maximize officer safety. These tactics and strategies concern the dangers presented by other vehicles on the roadway and the potential for danger when encountering drivers and passengers present in stopped vehicles.

#### **Communication**

The initial steps of a traffic stop involve important actions of the officer by noting your location and communicating your intention to conduct a traffic stop with the dispatcher. This involves advising them of your call sign, location, and the involved vehicle's description (tag number, color, make, model, etc.), and estimated number of occupants before initiating the stop. Doing so will ensure the dispatcher and your colleagues know your location. Update the dispatcher on the status of your stop and request assistance as needed.

#### **Making the Stop**

After communicating with the dispatcher and providing information about your location and the vehicle, activate your emergency equipment to initiate the stop. When possible, do so in the area most advantageous to you such as a well-lit, open area with the fewest points of ambush, hazards, debris, and pedestrian traffic. Utilize situational awareness and remain observant as the vehicle slows or stops.

Things to be aware of while observing a vehicle during this stage of the stop include:

- The driver's movements
- The number of people in the vehicle
- Reclined seats concealing occupants
- Hesitant or delayed response to your attempt at conducting a stop (e.g., drivers may delay in stopping to do so in what they feel is a better/safer location for them)
- An abrupt stop or change in driving behavior after you activate your emergency equipment
- Anything unusual about the vehicle or occupants

When making the stop, position your vehicle a safe distance from the other vehicle. Being close behind the other vehicle reduces the reaction gap between you and the individual(s). Your vehicle should generally be at least two (2) vehicle lengths behind the individual's vehicle. Always turn your vehicle wheel to the left so that, in the case of a collision, your vehicle will be moved towards the roadway and away from you and the individual's vehicle.

Park your vehicle in an advantageous position. The three most common positions used are:

- **In line:** This position involves positioning your vehicle directly behind the suspect vehicle and generally in line with that vehicle. It creates the least amount of intrusion into the roadway while providing the least amount of protection to the officer. This position is normally only used on narrow, rural, or curved roads without adequate space for traffic stops.
- **Off-set:** This position involves positioning your vehicle in line with the suspect's, but the patrol car is positioned approximately one-half a car width into the lane of travel. This provides protection for the officer to approach the suspect vehicle as the patrol car blocks traffic approaching from the rear. This position works best on roadways with a wide shoulder to accommodate the suspect vehicle and off-set patrol car without obstructing a lane of travel and is most commonly used when in a 10-4 capacity.
- **Angled:** The most commonly used position involves angling the patrol car 30-45 degrees to that of the suspect vehicle. This method provides the best cover and protection to an officer upon exiting because the engine block and a large section of the patrol car are between him or her and the suspect vehicle. Furthermore, this position provides protection from a rear-end collision involving passing motorists as the force of the impact will be more likely to move the patrol car into the roadway and away from the officer/suspect. This position also enables officers to make a passenger side approach with a lesser chance of being seen.

After making the stop and positioning your vehicle, utilize the patrol car's take-down lights and spotlights to illuminate your workspace and limit the driver's ability to monitor your movements and position. Generally, the take-down lights and headlights will illuminate the area sufficiently. The driver's side spotlight should be focused on the suspect vehicle's driver-side mirror and the passenger side spotlight should be focused on the center interior rear view mirror. Doing so provides additional illumination, affects the driver's night vision, limits the driver's ability to use mirrors to monitor your movements, and gives you an advantageous position in which to observe and approach the suspect vehicle.

Be aware of lights used inside of your vehicle as well. Avoid using the white overhead light which illuminates your position in the vehicle. Most MPD patrol cars have a dim red interior light which provides enough illumination to work while remaining out of sight of the suspect vehicle's occupants.

Making your approach and encountering the occupants is a crucial step in the process of conducting a traffic stop and sets the tone for the encounter. Do so methodically and control the situation. When it is necessary to give orders to the driver/occupants prior to approaching, use the patrol car's PA system to clearly communicate your instructions without having to approach the vehicle. Close your vehicle door quietly so as to avoid indicating to the driver/occupants that you are about to approach. Continue

observing the driver, occupants, and interior compartment of the vehicle for any indications of dangerous weapons, movements, or unusual activity. Be patient and take your time to evaluate the situation.

Consider the following:

- **The Kill Zone:** When approaching after a traffic stop, do not stand directly in front of the driver's door/window. This area is referred to as the kill zone because it gives the driver a tactical advantage over the officer. Officers in this position can be grabbed by the driver and dragged on the roadway and they present a larger target for a driver who may be planning an assault. Similarly, officers should not stand in front of the suspect vehicle or between the patrol car and suspect vehicle. Officers most commonly stand at the **B Pillar** which is the door frame separating the driver's position from the rear seat. Here the officer is close enough to communicate with the driver yet exposes him- or herself the least.

When approaching a vehicle with rear seat occupants, the kill zone is considered all areas forward of the rear door frame or **C Pillar** where the officer becomes exposed to passengers. Officers may choose which tactics to use in this situation and be guided by the circumstances and whatever danger he or she perceives. Officers may remain out of the kill zone, communicate through the rear window, and direct the rear seat passenger to pass vehicle documents from the driver through the rear window. Occupants may also be instructed to keep their hands on their knees or on the vehicle headliner while you enter the kill zone and interact with the driver.

- **Passenger Side Approach:** Because many drivers expect an officer to approach on the driver's side of the vehicle, responding to the passenger side is often a more tactically sound form of approach. It increases the element of surprise, which affords the officer more time and opportunity to detect signs of danger and observe the driver/occupants prior to the encounter. Furthermore, it provides an officer much more protection from passing vehicles on the roadway. For a passenger side approach, walk to the rear of your patrol car and continue around the patrol car to the passenger side in order to avoid being in between the patrol car and suspect vehicle. Communicating with the driver may be more difficult from the passenger side but this path is often the most tactically sound way to make your initial approach.
- **Driver's Side Approach:** This is the more traditional and commonly used approach. Depending upon the circumstances and officer's preference, this approach can be very effective. Being on the suspect vehicle's driver's side, officers are closer to the driver and find it easier to communicate and detect signs of danger, intoxication, or impairment. When it's been determined that the officer is dealing with a low-risk violator, it is often easier to interact and pass documents using a driver's side approach.

Interaction with the driver and occupant(s) should always be done in a professional manner. This interaction should clearly convey to the driver who you are, what you are doing, your basis for doing it, and what is expected of them. During the initial interaction, you should request three (3) items which all drivers are required to possess: Operator's permit/license, vehicle registration, and proof of vehicle insurance. Be sure to check the validity of these documents before clearing the stop.



Your initial interaction should include the following:

- Identify yourself (e.g., “Good evening, sir/ma’am. I’m Officer \_\_\_\_\_ with the Metropolitan Police Department’s \_\_\_\_\_ District.”)
- State the reason for the stop (“The reason for this stop is \_\_\_\_\_”)
- Obtain driver/vehicle documents (e.g., “May I have your driver’s license, vehicle registration, and proof of insurance? And where are they located?”)

The interaction should be kept brief, though you may during the initial or subsequent interaction discuss the infraction or reason for the stop with the driver and/or occupants. A common practice among police officers is to develop a standard dialogue to use on every stop to ensure that each one is conducted in the same professional manner. Standard dialogue can also help to avoid escalation as well as time spent in the roadway and near the vehicle’s kill zone. Always refrain from arguing about the infraction, issuance of an NOI, or justification for the stop.

Always handle your flashlight and retrieve documents with your non-weapon hand so as to keep your weapon hand free.

While writing NOIs or checking the driver and vehicle documents for validity, continue observing the suspect vehicle regularly and avoid lowering your head to work on your lap or computer for extended periods of time. Another tactic employed by many officers is to remain outside the patrol car and complete tasks behind the patrol car on the trunk area as it affords a continuous view of the suspect vehicle and ability to detect any oncoming ambush.

Be on the lookout for signs of danger for the duration of the traffic stop. The following actions, though not illegal, may indicate the potential for danger:

- Driver or occupants opening a vehicle door, or exiting the vehicle
- Heavily tinted windows
- Occupant(s) approaching your patrol car
- Occupant(s) reaching under seats, clothing, or compartments
- Excessive movement in the vehicle
- Taillights indicating the vehicle is being put in forward or reverse gear
- Nervous behavior (taking into consideration that being pulled over by a police officer can make anyone nervous)
- Refusal to answer questions or speak
- Anger in the face, jaw, hands, or elsewhere
- Excessive talking and changing of the subject
- Targeted glances (e.g., at officer’s weapon)
- Telling you to call for back up or warning you that he or she will not comply with your requests

As always, treat these indicators seriously. If you notice these indicators, request backup and take appropriate action to establish and maintain scene safety. While most traffic stops that members conduct will be for minor infractions, it is imperative to always remember and practice sound tactics.

Closing a traffic stop should be executed using the same situational awareness and tactics as the initial approach. Issue the NOIs, explaining them if necessary, and make a positive and professional closing such as “Drive safely.” Blade your body while returning to your patrol car from the suspect vehicle each time, remaining observant and not turning your back to the suspect vehicle. At the conclusion of the traffic stop, advise the dispatcher of your disposition. Clear the stop by saying “10-8” and advise the disposition, such as “NOI issued, or Warning Issued.”

### **12.3.4 Integrate modifications to traffic stop tactics according to existing conditions**

Although most traffic stops will take place without incident, none are routine and some have the potential to become extremely dangerous. Depending upon the situation, some traffic stops will be considered high-risk prior to initiating the stop. These are known as a **felony stops**. They are conducted differently due to the nature of the offense and level of risk. Felony stops occur for a variety of different reasons and offenses, such as with subjects who are known to be armed, fugitives that are to be considered dangerous, offenders who have committed a violent crime, or at the termination of a vehicular pursuit.

Officers are reminded that they need to be able to articulate the applicable legal standards to take these additional law enforcement actions during a traffic stop. For example, to ask a person to the back of the vehicle an officer needs Reasonable Articulate Suspicion (RAS) that the person has committed, is committing or is about to commit criminal activity. RAS that the person is armed and dangerous is necessary if to perform a pat down or frisk of the person. Lastly, placing someone in handcuffs is the legal equivalent to a “stop” or an arrest, depending on the length of the detention. As such, officers are reminded that they need RAS of criminal activity to briefly place someone in handcuffs or probable cause that the person has committed a crime if the detention in handcuffs is longer.

During felony stops, the goal of the officers is to minimize the potential for danger by controlling each step of the procedure. Each stop will differ based upon the situation and compliance or lack thereof exhibited by the occupants.

The following procedures are commonly utilized during the course of a felony stop:

- **Back up:** Avoid conducting a felony stop until there are sufficient back up officers on scene. The number necessary will be based upon the number of occupants in the vehicle and the nature of the offense. If obtaining back up cannot be accomplished prior to the stop, avoid approaching the vehicle or taking any action until sufficient back up arrives.
- Avoid conducting felony stops on busy streets and in areas of high pedestrian traffic. Such areas are hard to control so it is often best to delay the initiation of the stop until you are in a more tactically advantageous area.
- Upon initiating the stop, do not approach the vehicle. Designate one officer or official to communicate to the occupants using a public address system while the additional officers provide

cover. Remain in a safe position of concealment and cover. Use the intercom to communicate all instructions to the occupants.

- Instruct the driver to turn off the vehicle and place the keys on the roof of the car or simply drop them out the window.
- Instruct all passengers to remain in the vehicle and to not make any sudden movements.
- Instruct the driver to exit the vehicle, place his or her hands on his or her head, and to face away from you.
- Instruct the driver to slowly walk backwards towards you until you tell them to stop. See note above on the legal requirement to take this police action.
- Instruct the driver to stop.
- Two designated officers will handcuff the driver, conduct a protective pat down for weapons, and move the driver to a safe location, while additional officers continue providing cover and monitoring the vehicle/occupants. (Reminder: you must have reasonable articulable suspicion for both the stop and RAS that the person is armed and dangerous for the protective pat down and must be able to document this in your paperwork.) Also, if the detention in handcuffs becomes prolonged, probable cause that the person committed a crime is needed.
- Repeat the same steps for each of the passengers separately.
- When the vehicle is believed to be free of suspects, officers may approach and visually clear the vehicle of any persons or contraband depending upon the nature of the offense.
- Be aware that the vehicle may be of evidentiary value. Avoid contaminating the vehicle and notify a crime scene technician to process the vehicle when such measures are called for.

### **12.3.5 Outline the legal requirements for searching vehicles and occupants in the course of a traffic stop**

Traffic stops and searches of vehicles require articulable facts to support a level of proof to justify such stops and searches. Justification for traffic stops, described earlier in this lesson, involves reasonable suspicion of a traffic violation. This standard, however, does not meet the level of proof required to conduct a search of a vehicle, which must be based upon probable cause.

Vehicles, unlike homes, buildings and most other structures, present a unique challenge to officers who have reason to believe evidence or contraband may be present because vehicles are mobile and can quickly and easily be moved to another location or jurisdiction in the time it takes to obtain a search

warrant. For this reason and under certain circumstances, searches of vehicles without a warrant are reasonable and permitted.

Consent to search a vehicle can always be requested by the officer conducting a stop. The following department policy and court cases provide guidance and set precedents for conducting searches of motor vehicles while on a traffic stop.

#### Case Law

- ***Brendlin v. California*, 551 U.S. 249 (2007)**

Police officers stopped a car to check its registration without reason to believe it was being operated unlawfully. One of the officers recognized the defendant (Brendlin), a passenger in the car, and verified that Brendlin was a parole violator. They arrested Brendlin and searched him, the driver, and the car, finding methamphetamine paraphernalia. Brendlin was charged with possession and manufacture of that substance. He moved to suppress the evidence obtained in searching his person and the car, arguing that the officers lacked probable cause or reasonable suspicion to make the traffic stop, which was an unconstitutional seizure of his person. The trial court denied the motion and the case went on to the State Supreme Court which held that a passenger is not seized as a constitutional matter and therefore lacks standing to move to suppress evidence that was seized from him. Brendlin appealed to the US Supreme Court.

**The Supreme Court ruled that a traffic stop effectively stops everyone in the car and, like at a crime scene or the scene of an arrest or investigation, it is reasonable for officers to not allow people to move about in ways that can jeopardize officers' safety.** Thus, when police make a traffic stop, a passenger in the car, like the driver, is seized for Fourth Amendment purposes. A passenger may therefore challenge the legality of the stop which led to a search or his or her arrest.

**NOTE:** Police officers have the discretion to allow passengers to leave the scene if they wish to do so. Though you have the authority to stop and detain all occupants of a vehicle, you are not required to do so.

- ***Michigan v. Long*, 463 U.S. 1032 (1983)**

Two police officers patrolling a rural area at night observed a car traveling erratically and at excessive speed. When the car swerved into a ditch, the officers stopped to investigate and were met by the defendant, the only occupant of the car, at the rear of the car. The defendant appeared to be under the influence of something and did not respond to initial requests to produce his license and registration. When he began walking toward the open door of his car to obtain the registration, officers followed and saw a hunting knife on the floorboard of the driver's side of the car. The officers then stopped Long and subjected him to a protective pat-down, which revealed no weapons. One of the officers shined his flashlight into the car, saw something protruding from under the armrest on the front seat and, upon lifting the armrest, saw an open pouch that contained what appeared to be marijuana. The defendant was then arrested for possession of marijuana. A further search of the car's interior revealed no more contraband, but the officers decided to impound the vehicle and more marijuana was found in the trunk. The Michigan state

trial court denied the defendant's motion to suppress the marijuana taken from both the car's interior and its trunk and Long was convicted of possession of marijuana. The case was later reviewed by the Michigan Court of Appeals, Michigan Supreme Court, and US Supreme Court.

This case raises the question of whether an officer who has articulable suspicion that an individual is armed and dangerous can search an area beyond that person as an extension of a *Terry* stop and frisk. The Court determined that the officers in this case had justified reasons for conducting the traffic stop. Furthermore, after noticing the knife which would be accessible to the defendant if he re-entered the vehicle, the officers had reasonable suspicion to believe he posed a danger. The Court also found that the "search of the car was restricted to those areas to which Long would generally have immediate control, and that could contain a weapon." (Remember that in Lesson 4.1 Introduction to Criminal Law you learned that a limited pat-down search of a person for the purpose of determining whether that person is armed is justified when reasonable suspicion exists in order to neutralize the threat of bodily harm. This case poses the question of whether that same principle applies to items within a person's reach inside a vehicle.)

The Supreme Court ruled that:

Our past cases indicate then that protection of police and others can justify protective searches when police have a reasonable belief that the suspect poses a danger, that roadside encounters between police and suspects are especially hazardous, and that danger may arise from the possible presence of weapons in the area surrounding a suspect. **These principles compel our conclusion that the search of the passenger compartment of an automobile, limited to those areas in which a weapon may be placed or hidden, is permissible if the police officer possesses a reasonable belief based on specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant the officer in believing that the suspect is dangerous and the suspect may gain immediate control of weapons.**

Just as a *Terry* suspect on the street may, despite being under the brief control of a police officer, reach into his clothing and retrieve a weapon, so might a *Terry* suspect in Long's position break away from police control and retrieve a weapon from his automobile. In addition, if the suspect is not placed under arrest, he will be permitted to reenter his automobile, and he will then have access to any weapons inside.

This court decision allows for a search of the areas of a vehicle which are accessible to the defendant and capable of concealing a weapon, when reasonable suspicion exists to believe that the defendant has or will have access to the weapon and is dangerous. If during that search an officer finds contraband, rather than a weapon, an officer clearly cannot be required to simply ignore such contraband due to the fact that it is not a weapon, and that contraband can lead to criminal charges and probable cause to support a more thorough search.

- ***Carroll v. United States, 267 U.S. 132 (1925)***

Carroll, a known bootlegger was the target of an undercover liquor purchase during the Prohibition Era that was arranged by federal agents. Prior to completing the undercover deal in which Carroll agreed to supply agents with whiskey, agents spotted Carroll driving on a highway between Detroit and Grand Rapids, Michigan. They stopped his vehicle, conducted a search of the vehicle, and seized sixty-eight (68) bottles of whiskey. Carroll was subsequently charged with transportation of illegal liquor. At the time, warrantless searches of vehicles, boats, and airplanes were permitted when agents had reason to believe illegal liquor was being transported.

The US Supreme Court held that this warrantless search was reasonable because probable cause existed to believe illegal liquor was being transported and because although a warrant is preferred, vehicles are different from buildings in that they can quickly be moved out of the locality or jurisdiction where a warrant is being sought. **As a result, with probable cause to believe evidence is present in the vehicle, a warrantless search is justified.**

**NOTE:** This is often referred to as **the Carroll Doctrine**.

- ***Arizona v. Gant, 556 U.S. 332 (2009)***

Rodney Gant was lawfully stopped by Tucson police officers while operating his vehicle. They discovered that Gant was operating with a suspended license. They subsequently handcuffed Gant, arrested him for the license-related traffic offense, and placed him in a secure police transport vehicle. The officers then conducted a search of the passenger compartment of his vehicle incident to his arrest. They found a firearm in the passenger compartment and cocaine in Gant's jacket which was on the back seat. He was subsequently charged with these additional offenses. The search was not based upon any probable cause; it was conducted as a search incident to arrest. Gant challenged the propriety of the search and his motion to suppress evidence was granted. The case made its way to the US Supreme Court where the justices agreed.

The Court reviewed its prior decisions regarding search incident to arrest and vehicle searches before issuing its ruling:

a search incident to a lawful arrest applies only to "the area from within which [an arrestee] might gain possession of a weapon or destructible evidence." *Chimel* ... This Court applied that exception to the automobile context in *Belton*, the holding of which rested in large part on the assumption that articles inside a vehicle's passenger compartment are "generally ... within `the area into which an arrestee might reach."

This Court rejects a broad reading of *Belton* that would permit a vehicle search incident to a recent occupant's arrest even if there were no possibility the arrestee could gain access to the vehicle at the time of the search. The safety and evidentiary justifications underlying *Chimel's* exception authorize a vehicle search only when there is a reasonable possibility of such access. Although it does not follow from *Chimel*, circumstances unique to the automobile context also justify a search incident to a lawful arrest when it is "reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle."

**Police may only search vehicle if 1) it is reasonable to believe that the arrestee might access the vehicle at the time of the search or 2) that the vehicle contains evidence of the offense of the arrest.**

- ***United States v. Ross, 456 U.S. 798 (1982)***

Police officers received a tip from a reliable informant that Ross was selling drugs out of the trunk of his vehicle. The informant provided a detailed description of Ross, his vehicle, and its location. The officers later spotted Ross and a car which matched the informant's tip. As a result, they conducted a traffic stop of Ross. One of the officers found a bullet on the front seat of the automobile. Officers then conducted a more detailed search in which they discovered a pistol in the glove compartment. They then used Ross's keys to open the trunk where they found a closed paper bag containing packaged heroin and a significant amount of currency. All of the searches were conducted with probable cause and without consent or a warrant.

This case raises the question of how far a warrantless vehicle search based upon probable cause can extend, and whether the search is limited only to the passenger compartment or areas accessible to the defendant. **The Supreme Court decided that when probable cause exists to support a warrantless search of a vehicle, officers may search any part of that vehicle and any container in that vehicle that could reasonably contain an item or object that officers have probable cause to search for.**

The Court ruled that:

The scope of a warrantless search based on probable cause is no narrower—and no broader—than the scope of a search authorized by a warrant supported by probable cause. Only the prior approval of the magistrate is waived; the search otherwise is as the magistrate could authorize.

The scope of a warrantless search of an automobile thus is not defined by the nature of the container in which the contraband is secreted. Rather, it is defined by the object of the search and the places in which there is probable cause to believe that it may be found.

- ***California v. Acevedo, 500 U.S. 565 (1991)***

Federal drug enforcements agents intercepted a package containing marijuana that was enroute to Santa Ana, CA. They called the local police department to arrange an operation in which the package would be delivered. Santa Ana police officers took possession of the package, confirmed that it contained marijuana, and allowed the recipient to take possession of it from the FedEx facility. A short time later, the recipient entered and left an apartment building, dropping the packaging in the trash outside the building. Another man (Acevedo) then left the same apartment carrying a bag which appeared to be the same size as one of the packages containing marijuana. Acevedo placed the bag in the trunk of his car and drove off. Police officers stopped him, opened the trunk, searched the bag, and found marijuana which he was then charged with possessing.

The issue in this case involves the officers' justification for the search and raises the question of whether a police officer can, without a warrant, search a closed container in a vehicle based upon probable cause to believe the container holds contraband. **The US Supreme Court affirmed that police officers can search a closed container in a vehicle based upon the exigent circumstances exception to the search warrant requirement.** The Court noted that:

In the case before us, the police had probable cause to believe that the paper bag in the automobile's trunk contained marijuana. That probable cause now allows a warrantless search of the paper bag. The facts in the record reveal that the police did not have probable cause to believe that contraband was hidden in any other part of the automobile and a search of the entire vehicle would have been without probable cause and unreasonable under the Fourth Amendment.

- ***Wyoming v. Houghton, 526 U.S. 295 (1999)***

During a lawful traffic stop of a vehicle in which Houghton was a passenger, an officer observed a hypodermic needle in the driver's shirt pocket. The driver admitted to using the needle to administer illegal drugs at which time the officer searched the passenger compartment of the vehicle. In Houghton's purse they found and seized methamphetamines and more drug paraphernalia. She was subsequently arrested for drug possession.

This case raises the issue of the constitutionality of searching a passenger's belongings that are in a vehicle for which there is probable cause to believe contraband is present. The US Supreme Court affirmed the legality of this particular search. The Court observed that based on the facts involving the driver, "[i]t is uncontested in the present case that the police officers had probable cause to believe there were illegal drugs in the car." And the **Ross decision made clear that such probable cause extends to containers within the car—regardless of whether the containers belong to the driver or a passenger.**

The driver was found to be in possession of drug paraphernalia and admitted to using the needle for the purpose of administering drugs. **This established probable cause to believe that contraband was present in the vehicle. As such, officers were permitted to search the passenger compartment and the passenger's purse so long as the areas searched are capable of containing or concealing the object of the search,** which in this case was drugs and/or more paraphernalia.

- ***Maryland v. Pringle, 540 U.S. 366 (2003)***

Pringle was a passenger in a vehicle occupied by two (2) other people. The vehicle was stopped by a police officer for speeding. While the driver was retrieving vehicle documents from the glove box, the officer noticed a large amount of currency rolled up inside the glove compartment. After issuing a warning for speeding, the officer requested and received consent from the driver to search the vehicle. In addition to the currency, the officer found and seized five (5) bags of cocaine from the back seat armrest. None of the occupants admitted ownership of the cocaine and the officer arrested all three occupants. At the police station, Pringle, the front seat passenger, waived his Miranda rights and confessed that the cocaine was his, that he intended to sell it, and that the other occupants did not know about its presence in the vehicle. He was later convicted of possession with intent.



The lawfulness of the arrest in which the officer was unable to determine which occupant was the sole offender was appealed. The Supreme Court affirmed the conviction and ruled that:

It is uncontested in the present case that the officer, upon recovering the five plastic glassine baggies containing suspected cocaine, had probable cause to believe a felony had been committed. The sole question is whether the officer had probable cause to believe that Pringle committed that crime. ... [The five] plastic glassine baggies of cocaine were behind the back-seat armrest and accessible to all three men. Upon questioning, the three men failed to offer any information with respect to the ownership of the cocaine or the money.

We think it an entirely reasonable inference from these facts that any or all three of the occupants had knowledge of, and exercised dominion and control over, the cocaine. Thus, a reasonable officer could conclude that there was probable cause to believe Pringle committed the crime of possession of cocaine, either solely or jointly.

**The officer in this case had probable cause to believe that a felony had been committed though it was not immediately clear who committed the crime. As such, it was reasonable for the officer to believe that any or all three of the occupants had knowledge of and exercised control over the illegal drugs. Thus, a reasonable officer would have probable cause to believe that Pringle committed the offense and his arrest, as well as the arrest of all three occupants, was lawful.**

**NOTE:** Police officers should generally avoid situations like this and always attempt to determine which person is the sole offender.

### Traffic Stop Length

A traffic stop cannot be delayed to obtain probable cause to search/arrest. A seizure that is justified solely by the interest in issuing a ... ticket to the driver can become unlawful if it is prolonged beyond the time reasonably required to complete that mission." *Illinois v. Caballes*, 543 U.S. 405, 407 (2005).

- In the context of traffic stops, police diligence [generally] involves requesting a driver's license and vehicle registration, running a computer check, and issuing a ticket." *West v. United States*, 100 A.3d 1076, 1084 (D.C. 2014) citing *United States v. Digiovanni*, 650 F.3d 498, 507 (4th Cir. 2011).
- Police may not extend an otherwise-completed traffic stop, absent reasonable suspicion, in order to conduct dog sniff. *Rodriguez v. United States*, 575 U.S. 348 (2015). Therefore, a dog sniff needs to occur while the traffic stop is still being processed.

## Department Policy for Consent to Search

If an officer does not have a search warrant and an exception to the search warrant requirement does not exist, the officer may ask the person to consent to a search.

Prior to conducting a consent search, members shall:

- a. Explain, using plain and simple language delivered in a calm demeanor, that the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to a search;
- b. Advise the subject that a search will not be conducted if the subject refuses to provide consent to the search and that the subject has a legal right to decline to consent to the search;
- c. Obtain consent to search without threats or promises of any kind being made to the subject;
- d. Confirm that the subject understands the information communicated by the member;
- e. Use interpretation services when seeking consent to conduct a search of a person who cannot adequately understand or express themselves in spoken or written English or is deaf or hard of hearing.

**“Sir/Miss, I would like to search your [bag, car, person, etc.]. I am requesting that you voluntarily, knowingly, and intelligently consent to a search. You have a legal right to decline consent to this request and the search will not be conducted if you refuse to provide consent. Do you understand?”**

When practicable, there shall be at least one BWC-equipped member present with his or her BWC activated prior to conducting a consent search. Members not equipped with a BWC shall request that a BWC-equipped member respond to the scene.

In cases when it is not practicable to have a BWC-equipped member present, members shall document the subject’s consent using a **PD Form 781 (Consent to Search)**. No consent searches shall be conducted without documented consent on a BWC or a signed PD Form 781.

Members shall capture their explanation of the consent search, including their notification that the subject may decline and the subject’s voluntary consent, on their BWC or in writing. There shall be a presumption that the subject did not voluntarily consent if the evidence of consent, including warnings required in the applicable General Order, is not captured on a BWC or in writing.

Members shall ensure completed PD Forms 781 are emailed to the Records Division at [Records.adminbox@dc.gov](mailto:Records.adminbox@dc.gov).

## 12.3.6 Conduct a traffic stop – Scenario

### Summary

You have now learned the legal requirements for conducting traffic stops, the tactics and procedures for conducting traffic stops and high-risk felony stops, and MPD pursuit policies. As a police officer, you will conduct traffic stops on a regular basis for a variety of reasons and it is important to remember the seriousness and potential for danger at all times, while also treating motorists with respect. Although most traffic stops will be positive interactions, remember to look for and detect signs of danger. Request and wait for back-up prior to approaching vehicles and attempt to de-escalate the situation to avoid confrontation and violence. Always err on the side of caution when pursuing a vehicle, and follow the policies described in this lesson.

The constitutional rights of those you encounter must be both respected and thoroughly understood as they relate to the actions you take. Be mindful of this and always ensure that your actions in stopping, searching, and arresting drivers and passengers are justified, lawful, and reasonable.

### REFERENCES

GO 201.26	Duties, Responsibilities and Conduct of Members of the Department	04/05/2011
GO 301.03	Vehicle Pursuits	07/20/2023
GO 302.01	Calls for Service	02/28/2023
GO 302.02	Radio Broadcasts and Look-outs	10/26/2012
GO 304.01	Operation and Management of Criminal Investigations	10/11/1987
GO 304.10	Field Contacts, Stops, and Protective Pat Downs	09/01/2023
	Cornell University Law Institute (Open Access)	
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