

# Policy 1106



Subject

## **WARRANTLESS ARREST PROCEDURES AND PROBABLE CAUSE STANDARD**

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*By Order of the Police Commissioner*

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### **POLICY**

It is the policy of the Baltimore Police Department (BPD) to conduct warrantless arrests in accordance with the rights protected by the U.S. Constitution and laws of the United States and the State of Maryland. This policy explains the Probable Cause standard and establishes guidelines for BPD members to follow when arresting individuals without a warrant. The principles underlying this policy, and the directives contained within, apply to all warrantless Arrests, regardless of the age or status of the suspect. Arrests of youth are subject to the same requirements. Members should exercise restraint in the use of arrest for violations that are eligible for citations. See [Policy 803, Criminal Citation Procedures](#), [Policy 808, Civil Citation Procedures](#), [Policy 809, Cannabis Violation Procedures](#), [Policy 906, Traffic Citations](#), and [Policy 1018, Lesser Offenses & Alternatives to Arrest](#).

**CORE PRINCIPLES**

**Proper Application of Probable Cause Standard.** A member must have sufficient Probable Cause prior to conducting the arrest of a person.

**Most Effective and Least Intrusive Response.**

A fair and effective response to a violation of the law balances public safety and order in the community against the serious impact of law enforcement action (e.g., loss of liberty; humiliation and stress; loss of income, employment, or housing) on the individual believed to have committed the violation.

Where effective and consistent with law and policy, resolving a violation with low impact on public safety and community order through problem-solving such as a verbal warning is generally preferable to a citation, and a citation is generally preferable to an arrest.

Because arrest is a last resort, members should refrain from making an arrest unless doing so reasonably advances the goal of public safety or addresses significant or chronic community disorder, and the situation cannot be resolved in a less intrusive manner that is authorized by law and policy.

Proactive policing is policing that addresses crime and disorder. Importantly, addressing such problems does not necessarily require taking enforcement action. Using problem solving or verbal persuasion to deal with a situation is proactive policing, as is using a citation in lieu of arrest when that achieves legitimate public safety goals or effectively addresses community disorder.

**Limited Circumstances.** Except in limited circumstances (See [Appendix B](#)), a member may not make a warrantless Arrest for a misdemeanor not committed in their presence. In no circumstance may a member make an Arrest for a civil offense.

**NOTE:** Making an arrest prohibited by law in an effort to harass or otherwise target a person will subject the arresting member to administrative and/or criminal charges.

**DEFINITIONS**

**Arrest** — An Arrest generally refers to the detention of a known or suspected offender for the purpose of prosecuting them for a crime. An Arrest can also occur when an Investigative Stop is extended past its legal limits (See [Policy 1112, Field Interviews, Investigative Stops & Weapons-Pat-Downs](#)). A lawful Arrest requires Probable Cause that a crime was committed, or is being committed.

**Boilerplate Language** — Words or phrases that are standardized, “canned” or patterned and that do not describe a specific event, situation or set of circumstances (e.g., “furtive movement” without describing what that movement was or “fighting stance” without describing the body positioning involved).

**Booking** — An Arrest and transport of a suspect to a booking facility for the purpose of charging by causing Statement of Probable Cause and charges to be filed against that person.

**Lesser Offenses** — Certain minor infractions of statutes or ordinances enumerated in the Baltimore City Code or the Maryland Annotated Code. Lesser Offenses include citation-eligible misdemeanor offenses that often carry fines or maximum penalties of imprisonment up to 90 days. Generally, Lesser Offenses also include so-called “quality of life” offenses which members may enforce at their discretion. Examples of common Lesser Offenses include:

- Loitering,
- Trespassing,
- Public Urination/Defecation,
- Disorderly Conduct (including Disturbing the Peace),
- Obstructing or Hindering an Officer,
- Open Container, and
- Littering.

**Probable Cause to Arrest** — Where facts and circumstances taken as a whole, known to the member making or directing the arrest, would lead a reasonable member to believe that a particular person has committed or is committing a crime. Probable Cause is based upon an objective assessment of the facts and circumstances presented to the member and requires a higher level of evidence than Reasonable Articulate Suspicion (see below). For example, a member responding to a call regarding a robbery might have Reasonable Articulate Suspicion to stop someone who matches a reliable or credible description of the perpetrator but would not have Probable Cause to Arrest until obtaining some further evidence, such as an identification by the victim or discovery of proceeds from the robbery on his person.

**Reasonable Articulate Suspicion (RAS)** — A well founded suspicion based on specific, objective, articulable facts, taken together with the member's training and experience, that a subject has committed, is committing, or is about to commit a crime. RAS required to justify a stop is a lower standard than for an Arrest. For example, a member responding to a call regarding a robbery might have RAS to stop someone who matches a description of the perpetrator but would not have Probable Cause to Arrest until obtaining some further evidence, such as an identification by the victim or discovery of proceeds from the robbery on his person.

**Statement of Probable Cause (SPC)** — A clearly written statement made after a warrantless arrest in support of an Application for Statement of Charges which articulates the basis for the member's belief that a particular person has committed a crime.

## **DIRECTIVES**

### **Justification**

1. Probable Cause to Arrest exists where facts and circumstances, known to the member and taken as a whole, would lead a reasonable person to believe that a person has committed or is committing a crime.
2. The decision and legal authority to make a warrantless Arrest is separate from the decision and legal authority to charge the person with a crime. While a warrantless arrest based on Probable Cause might have been justified initially based on the facts known to the member at the time, the decision to "Book" a person must take into account any exculpatory facts and not just aggravating or inculpatory facts uncovered after the Arrest. In some cases, the investigation could demonstrate that an Arrested person should be released or should be issued a citation and released in lieu of being "Booked" ([Policy 803, Criminal Citation Procedures](#), and [Policy 808, Civil Citation Procedures](#)). Members are reminded that, even after an Arrest, the appropriate enforcement action is the *Most Effective and Least Intrusive Response*.

**Probable Cause Standard**

3. Probable Cause to Arrest should be founded on specific and objective facts or observations about how a person behaves, what the person is seen or heard doing, and the circumstances or situation in regard to the person that is either witnessed or known by the member. Accordingly, Probable Cause to Arrest must be based on facts or observations about a particular person's actions or the particular circumstances that a member encounters. The physical characteristics of a person are never, by themselves, sufficient. Instead, those characteristics must be combined with other factors, including a specific, non-general description matching the suspect or the observed behaviors of the person. A mere hunch or suspicion is not enough.

**NOTE:** The information a member relies on to determine whether Probable Cause to Arrest exists does not require sufficient evidence to justify a conviction. It does require a reasonable approach by the member and an honest judgment based upon a combination of factors, any of which standing alone might not be enough to justify an arrest but which, if viewed as a whole, constitute Probable Cause to Arrest.

4. Probable Cause to Arrest may be determined by considering the various kinds of information commonly utilized by police: information obtained from informants, from victims and witnesses, from other law enforcement agencies or officers, and information acquired first-hand. Reliability of the information is the key component in determining whether Probable Cause to Arrest exists.
5. Probable Cause may be based upon reliable hearsay information alone and need not reflect the direct personal observation of the affiant (member). Probable Cause may also be based upon a combination of direct observation and hearsay information.
6. The elements of Probable Cause to Arrest shall exist at the time of Arrest, and later events or information acquired afterward cannot be used to justify the Arrest.
  - 6.1. While events that occur after the Arrest CANNOT be used to justify the Arrest, events after Arrest (particularly statements made by the suspect) are relevant to whether there is Probable Cause to Charge and must generally be disclosed to the defense prior to trial. Therefore, relevant facts and statements of the arrestee and witnesses shall be documented by the member in the Incident Report and any Statement of Probable Cause authored in the case.
7. Members shall be mindful that just because the member has Probable Cause for Arrest, warrantless Arrest with transport to Central Booking is often not the member's only option. There are citation-eligible violations for which issuance of a citation may be preferable to an Arrest and other violations where the member is required by law to attempt to issue a criminal citation instead of Arrest. The appropriate response for these Lesser Offenses is the least intrusive response under the circumstances as reasonably understood by the member at the time. Therefore, depending on the circumstances surrounding the particular violation, for citation-eligible violations usually a verbal warning is preferable to a criminal/civil citation, and a criminal/civil citation is preferable to an Arrest.

**NOTE:** See [Policy 1018, Lesser Offenses & Alternatives to Arrest](#), [Policy 803, Criminal Citation Procedures](#), [Policy 808, Civil Citation Procedures](#), [Policy 809, Cannabis Violation Procedures](#) and [Policy 906, Traffic Violations](#) for further guidance.

8. In some instances, it may be preferable to refrain from Arresting a person in order to allow a member to further investigate the case and have a warrant issued, if appropriate.
9. Members are prohibited from making an Arrest in the following circumstances:
  - 9.1. A misdemeanor not committed in their presence, except for the specific offenses and circumstances allowed by law (see [Appendix B](#)).
  - 9.2. A misdemeanor that does not carry a term of imprisonment.
  - 9.3. Where no crime has been committed, such as offenses that are purely civil (e.g. simple possession of a civil quantity of cannabis).

**NOTE:** When the situation involves domestic violence, refer to [Policy 711, Intimate Partner Crimes and Incidents](#).

10. What begins as an investigative stop likely becomes an Arrest when the scope of the detention goes beyond the basis for the stop. Actions that would indicate to a reasonable person that they are being Arrested or indefinitely detained may convert an investigative stop into an Arrest, which would require Probable Cause to Arrest or an Arrest warrant.
  - 10.1. Unless justified by the RAS for the original stop, members shall have additional articulable justification for further limiting a person's freedom during an investigative stop by doing any of the following:
    - 10.1.1. Taking a person's identification or driver's license away from the immediate vicinity;
    - 10.1.2. Ordering a motorist to exit a vehicle;
    - 10.1.3. Directing a person to stand (or remain standing), or to sit any place not of their choosing; or
    - 10.1.4. Transporting any distance away from the scene of the initial stop (including for the purpose of witness identification).

**NOTE:** Members are limited with regard to their ability to transport a suspect during an investigative stop and shall justify the need to do so based on a legitimate law-enforcement purpose such as identification at the scene of the crime. Involuntary transport beyond a short distance from the stop will almost always be considered an Arrest, particularly if the transport is to a police station. (See [Policy 1112, Field Interviews, Investigative Stops & Weapons Pat-Downs](#)).

- 10.2. In addition to RAS for the stop, the following shall also be justified based on particularized facts suggesting a threat to safety or risk of flight:
  - 10.2.1. Placing a person into a police vehicle;
  - 10.2.2. Directing a person to lie or sit on the ground;

- 10.2.3. Applying handcuffs; or
- 10.2.4. Pointing a firearm.
- 10.3. In addition to RAS for the stop, a weapons pat-down shall also be justified based on RAS that the suspect is armed and dangerous.
- 11. Members shall seek permission from a permanent rank supervisor prior to effectuating an Arrest for the following crimes, unless not practicable under the circumstances, in which case officers must notify a permanent rank supervisor as soon as practicable after effectuating an Arrest:
  - 11.1. Obstructing, Hindering, or Resisting an Officer;
  - 11.2. Disorderly Conduct;
  - 11.3. Failure to Obey an Officer;
  - 11.4. Gambling (Host only);
  - 11.5. Making a False Statement to an Officer; and
  - 11.6. Trespassing.

### **After a Warrantless Arrest**

**NOTE:** For further Arrest protocols, see [Policy 1202, Interactions with Youth](#), [Policy 1207, Youth Interrogations](#), [Policy 1117, Adult Booking Procedures](#), and [Policy 1114, Persons in Police Custody](#).

### **Member**

- 12. If a member Arrests a person, but then discovers that Probable Cause to Arrest does not exist, the member shall immediately release the person if they are in the custody or control of BPD. The member shall complete an Incident Report detailing the Arrest upon the subject's release.
  - 12.1. If the person is at Central Booking (CBIF) or otherwise incarcerated the member shall contact a supervisor who should then contact the State's Attorney's Office.
- 13. Upon making an Arrest, the member shall conduct a Search Incident to Arrest. (See [Policy 1109, Warrantless Searches](#)).
  - 13.1. The member shall not "Search Incident to Citation." There is no Search Incident to Arrest as part of issuance of a citation where the person is not being Arrested. In no case should a member who knows from the outset that they are not going to Book a person, place that person under Arrest purely in order to search them. For example: where an officer has already decided to issue a citation for an open container, the member shall not Arrest the

person, search them as a free check for contraband, and then release them with a citation if they do not find anything.

14. Upon Booking a person to be charged as an adult, the member shall complete a SPC and enter appropriate charges. When drafting a SPC, the member should adhere to the following:
- 14.1. The SPC shall be clear and concise yet contain sufficient information to allow a Court Commissioner to determine if there is sufficient Probable Cause to Arrest and to support the charge(s).
  - 14.2. The member shall be able to explain the legal justification for Arrest in their own words and shall not use Boilerplate Language.
  - 14.3. If Probable Cause relies on a source of information, named or unnamed, the member shall provide sufficient information to substantiate the reliability and credibility of the source of information. This information is the same as that which is necessary to substantiate reliability of an unnamed source of information when completing an affidavit for a search and seizure or Arrest warrant.
  - 14.4. The member shall only rely on information known at the time of receipt to be reliable and credible. This does not apply where the unreliable or incredible nature of the information is clearly explained in the relevant report or document explaining justification for the action. Members who knowingly utilize materially false or incorrect information in effectuating an Arrest without clearly explaining the falsity in the SPC shall be subject to discipline. A member may not leave material information out of a SPC if that information would defeat a finding of Probable Cause to Arrest and/or charge.
  - 14.5. In the case of a warrantless Arrest by a non-commissioned security guard, or other individuals not vested with police authority, if sworn members take custody of the person for Booking, a sworn member shall prepare or supervise the preparation of the SPC.
  - 14.6. The member shall apply the above rules to all traffic-related Arrests.
15. When applicable, in the narrative section of the SPC, the member shall:
- 15.1. For all Arrests made where there is CCTV footage, write at the top of the narrative of the SPC in bold capital letters, "**INCIDENT CAPTURED ON CCTV, CC#\_\_\_\_\_**," in adherence to Policy 1014, *Video Surveillance Procedures*.
  - 15.2. For all Controlled Dangerous Substance Arrests, identify the involved members and their roles in the following format at the top:

Role of Officer	Name(s)	Sequence #(s)
Arresting Officer:		
Observing Officer:		
Recovering Officer:		
Packaging Officer:		
Submitting Officer:		

- 15.3. For all Arrests where evidence was submitted, include the following information in the next line of the narrative.

<b>Property Listing with Property Number(s):</b>	
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16. If a person is Arrested for a citation-eligible violation, the member shall include in any associated Incident Report and SPC the detailed information describing which of the eligibility requirements (as listed in [Policy 803, Criminal Citation Procedures](#) and [Policy 808, Civil Citation Procedures](#)) the person did not meet.
17. The member shall complete Incident Reports, including Arrest reports, and properly document the Probable Cause for each Arrest in accordance with the timeframes outlined in [Policy 104, Incident Reporting](#), with respect to Group A and Group B offenses.
18. The primary member shall summons all involved members to court, in adherence to [Policy 1811, Court/Administrative Hearing Procedures](#).
19. The primary member shall contact appropriate departmental and/or district court supervisory personnel and Assistant State's Attorneys for assistance as soon as practicable when legal or procedural guidance is needed in unique, complex, unfamiliar or challenging cases.
20. The member shall include in the SPC the name of the supervisor who reviewed the completed SPC.

### **First-line Supervisor**

21. The supervisor shall approve or disapprove the member's request to make an Arrest for Lesser Offenses and offenses listed in #11 above. (See [Policy 1018, Lesser Offenses and Alternatives to Arrest](#), when determining when to verbally warn and counsel, issue citations, or Arrest persons for Lesser Offenses).
22. Supervisors shall review reports and forms for deficiencies including:
- 22.1. "Boilerplate" language, inconsistent information, lack of articulation of the legal basis for the action, language that reaches a conclusion without providing supporting detail, or other indications that the reports or forms may contain information that was not accurate at the time it was reported.
- 22.2. Reports that use evidence discovered after the stop was initiated or the fact that the person was ultimately Arrested to justify the initial stop.
- 22.3. Arrests that are unsupported by Probable Cause to Arrest or are otherwise in violation of the law or BPD policy.
23. The supervisor shall review the SPC to ensure each statement accurately reflects the reasons for the Arrest and includes sufficient evidence to show Probable Cause to Arrest for the alleged violations as described above in the "Probable Cause Standard" section. Supervisors shall have

the arresting member add their name to the SPC prior to sending it to the State's Attorney for review.

24. Whenever a member Arrests a person and charges them with a citation-eligible violation, review the resulting Incident Report and SPC in order to verify that:
  - 24.1. The person did not meet the eligibility requirements outlined in [Policy 803, Criminal Citation Procedures](#) or [Policy 808, Civil Citation Procedures](#); and
  - 24.2. Both the Incident Report and the SPC contain sufficiently detailed information explaining or describing why:
    - 24.2.1. A citation would not have abated the problem; or
    - 24.2.2. Why the person was not eligible for a citation.
  - 24.3. Where practical, review the facts with the arresting officer prior to the suspect being transported to the booking facility.
25. Supervisors shall review all other reports related to the Arrest for completeness and adherence to law and policy. Unless a violation of policy has occurred requiring a Blue Team entry prior to end of shift, supervisors shall memorialize in writing any need for corrective action within three (3) working days of when the Arrest occurs, absent exceptional circumstances.
  - 25.1. If exceptional circumstances do exist, the supervisor shall document what the exceptional circumstances are.
  - 25.2. If the supervisor identifies deficiencies through the review, additional investigation or corrective action may require additional time for review, but not to exceed three working days, to complete the review (See [Policy 104, Incident Reporting](#)).
26. Supervisors shall take appropriate action to address all apparent violations or deficiencies in Arrests and Arrest requests, including deficiencies in reporting. Such action shall be documented by the supervisor. Appropriate action may include:
  - 26.1. Releasing the person,
  - 26.2. Recommending non-disciplinary corrective action for the involved member,
  - 26.3. Training, and/or
  - 26.4. Referring the incident to the Public Integrity Division (PID) for administrative or criminal investigation.
27. An Arrest that is prohibited by law (See [Appendix B](#)) shall be reviewed for possible harassment or other inappropriate intent, and, if appropriate, referred to PID.

28. For each subordinate, the supervisor shall track each violation or deficiency and the corrective action taken, if any, to identify members needing repeated corrective action. Each violation or deficiency shall be noted per BPD policy and procedure.

## **REQUIRED ACTIONS**

### **Performance Standards Section**

29. The Performance Standards Section will receive a list of arrests from the State's Attorney's Office (SAO) of BPD Arrests that were Released Without Charge (RWOC) and review the Probable Cause determinations. This review will not be performed by a supervisor who previously reviewed the Probable Cause determination.
30. Following this review, the Performance Standards Section will take any appropriate action, which may include recommending training or other non-disciplinary corrective action for the involved member(s) and/or referring incident(s) for administrative or criminal investigation.
31. Where a review finds that an Arrest was not supported by Probable Cause, the Performance Standards Section will document in writing what actions were taken in response to the review or the reasons that no actions were taken.
32. On a quarterly basis, the Performance Standards Section shall review this data to assess patterns in Arrest practices by member, shift, unit, or district. This review will be designed to help evaluate BPD's enforcement priorities and identify patterns of member, shift or district behavior that may warrant corrective or disciplinary action.

## **APPENDICES**

- A. Examples of Probable Cause Statements  
B. Maryland Law Governing When a Member May and May Not Make a Warrantless Arrest

## **REFERENCED POLICIES**

[Policy 711, \*Intimate Partner Crimes and Incidents\*](#)  
[Policy 803, \*Criminal Citation Procedures\*](#)  
[Policy 808, \*Civil Citation Procedures\*](#)  
[Policy 809, \*Cannabis Violation Procedures\*](#)  
[Policy 906, \*Traffic Citations\*](#)  
[Policy 1018, \*Lesser Offenses and Alternatives to Arrest\*](#)  
[Policy 1109, \*Warrantless Searches\*](#)  
[Policy 1112, \*Field Interviews, Investigative Stops & Weapons Pat-Downs\*](#)  
[Policy 1114, \*Persons in Police Custody\*](#)  
[Policy 1202, \*Interactions with Youth\*](#)  
[Policy 1207, \*Youth Interrogations\*](#)  
[Policy 1811, \*Court/Administrative Hearing Procedures\*](#)

**RESCISSION**

Rescind Policy 1106, *Warrantless Arrest Procedures and Probable Cause Standard*, dated 9 February 2021 and PCM 20-01, *Stops, Searches, and Arrests Policy Training Clarification*, dated 7 February 2020.

**COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

**APPENDIX A****Examples of Probable Cause Statements**

Upon my execution of a Search and Seizure Warrant for powder cocaine and related drug trafficking paraphernalia at 1304 Marywood Place, second floor apartment, I found the defendant named above who resides at that address seated at the dining room table with red top vials filled with white powder, suspected cocaine, on the table in front of him. I observed the above-named defendant measuring white powder on a mirror and placing it into an open vial. The defendant was the only person on the premises at the time of the execution of the warrant.

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Officer James Smith and I were working as a two-officer patrol unit when we received a call, via police radio, from an anonymous citizen, to respond to the 2800 block of Wayside Avenue for an armed subject on the street with a gun. The subject was described as wearing a white knit hat, black silk T-shirt and red pants. Upon our arrival, we observed the defendant named wearing clothing matching the description given over the police radio. A brown wooden butt handle was sticking out of his right rear pocket. Upon this observation, Officer Smith covered the subject, and I conducted a weapons pat-down. I recovered from the subject a .38 caliber Smith and Wesson blue steel snub-nosed revolver, serial #123456 and five live rounds of ammunition. The subject did not possess a MD Handgun Carry Permit and was subsequently arrested.

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On the above date and time, I was standing in \_\_\_\_\_, when I observed the defendant named above remove from its place of display one wristwatch and quickly place it in his right pants pocket without notifying the employee at the counter. The defendant then exited the store, making no attempt to pay for the merchandise. The suspect then attempted to flee but was located. He refused to identify himself and was arrested. The property belongs to (name of store) located at 123 Main Street and was later determined to be valued at \$177.50 by the store manager, Ms. Suzan Sullivan.

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I observed the defendant named above carrying a fifth bottle, labeled, "Jack Daniels Bourbon" in the 600 block of Chipperton Street. The defendant was staggering and swaying and appeared to be under the influence of alcohol. The defendant was screaming curses and obscenities as he was standing in the middle of the street and interfering with the free flow of vehicular traffic. The actions of the defendant caused a crowd of approximately 15 individuals to come out of their homes and gather at the scene. I repeatedly asked the defendant to put away the bottle, leave the street and refrain from screaming. The defendant refused to cooperate, and I subsequently detained him for disorderly conduct. I attempted to issue a criminal citation, but because of the suspect's behavior and refusal to comply with identification procedures and to cease the disorderly conduct, I alerted my supervisor Sgt. Janet Smith. Sgt. Smith approved the arrest.

**NOTE:** Statements such as, "The defendant robbed Mary Smith" or "The defendant assaulted John Brown," are conclusions of law and not acceptable in probable cause statements.

**APPENDIX B****Maryland Law Governing When a Member May and May Not Make a Warrantless Arrest**

1. An officer may make a warrantless arrest for a felony or attempted felony, regardless of whether it is committed in their presence. [CP 2-202\(c\)](#)
2. An officer may make a warrantless arrest for a misdemeanor with probable cause it is being committed in their presence. [CP 2-202\(b\)](#)

**Note:** A member does not need to view a crime for it to occur in their presence. A crime is committed in a member's presence when any of their senses, including sight, smell, and sound, afford them knowledge that it is being committed.

**Note:** A crime HAS occurred in a member's presence if they observe it on closed-circuit television as it is happening. However, a crime has NOT occurred in a member's presence if they only observed it by watching previously recorded video surveillance.

3. An officer may not generally make a warrantless arrest for a misdemeanor not committed in their presence
  - a. Exceptions – Some exceptions to this general requirement are as follows:
    - i. [SPECIFIC MISDEMEANORS](#) - An officer may make a warrantless arrest for a misdemeanor not committed in their presence if ALL of the following conditions are met:
      1. The officer has probable cause to believe that unless an arrest is made immediately:
        - a. The suspect may not be apprehended
        - b. OR the suspect may cause physical injury or property damage to another
        - c. OR the suspect may tamper with or destroy evidence
      2. AND the crime is one of the following misdemeanors:
        - a. Manslaughter by vehicle or vessel ([CR 2-209](#))
        - b. Malicious burning or attempted malicious burning ([CR 6-105](#))
        - c. Malicious destruction or attempted malicious destruction ([CR 6-301](#))
        - d. A theft crime where the value of the property or services stolen is less than \$1,000 or attempted theft ([CR 7-104](#))
 

**Note:** While the legislature has changed the misdemeanor theft crime values, the arrest statute only specifies theft where the value is "less than \$1,000"
        - e. False alarm of fire ([CR 9-604](#))
        - f. Indecent Exposure ([CR 11-107](#))
        - g. A crime that relates to controlled dangerous substances under [Title 5 of the Criminal Law Article](#) or an attempt to commit one of these crimes
 

**Note:** This includes misdemeanor CDS possession and fraudulent attempts to obtain CDS under [CR 5-601](#)
        - h. Wearing, carrying, or transporting of a Handgun ([CR 4-203](#), [CR 4-204](#))
 

**Note:** This includes on a person as well as in a vehicle
        - i. Carrying or wearing a Concealed Weapon ([CR 4-101](#))
        - j. Prostitution and related crimes under [Title 11, Subtitle 3 of the Criminal Law Article](#)

**Note:** This includes: prostitution, pandering, receiving earnings of a prostitute, house of prostitution.
      - k. Violating condition of release by contacting victim or going to/near victim's residence/work if the original crime was:

- ii. A sex crime involving a minor
- iii. A crime of violence (including 2<sup>nd</sup> degree assault)
- iv. Any crime against someone eligible for a protective order (see Policy 1110, *Protective and Peace Orders*)
- v. OR Stalking (in person, electronically, or via location tracking device) ([CP 2-203](#))

ii. DOMESTIC VIOLENCE – 2<sup>ND</sup> DEGREE ASSAULT

1. An officer may make a warrantless arrest for misdemeanor (2nd degree) assault committed outside their presence where there is probable cause to believe that:
    - a. the suspect battered their spouse or another person with whom the suspect resides;
    - b. there is evidence of physical injury; and
    - c. AND unless the suspect is arrested immediately, the suspect:
      - i. may not be apprehended;
      - ii. may cause physical injury or property damage to another; or
      - iii. may tamper with, dispose of, or destroy evidence;
- CP 2-204

Note: To make a warrantless arrest for misdemeanor assault under these circumstances, a report to the police must have been made within 48 hours of the alleged incident.

Note: Evidence of physical injury does not need to be visible for an officer to be able to make an arrest; there only needs to be probable cause to believe that there has been a physical injury (such as where there has been a credible statement by the victim that they were injured).

ii. STALKING:

1. An officer may make a warrantless arrest for misdemeanor stalking committed outside their presence where ALL of the following conditions are met:
    - a. The member has probable cause to believe that the suspect has committed the crime of Stalking (CR 3-802)
    - b. there is some credible evidence supporting the probable cause beyond the victim's statements
    - c. AND there is reason to believe the alleged victim or another person is in danger of imminent bodily harm or death.
- (CP 2-205)

iii. VIOLATION OF A PROTECTIVE ORDER:

1. An officer MUST make an arrest for violation of a protective order, peace order, or Extreme Risk Protective Order, regardless of whether it happened in the officer's presence, where:
  - a. There is probable cause that the suspect is in violation of a valid interim, temporary, or final Protective Order, Peace Order, or Extreme Risk Protective Order in effect at the time of the violation. (See Policy 1110, *Protective and Peace Orders*)

iv. TRAFFIC VIOLATIONS- An officer may make a warrantless arrest for a misdemeanor not committed in their presence where there is probable cause that the suspect:

1. Committed any traffic violation that caused or contributed to an accident resulting in bodily injury to or death of any person;
2. OR violated one of the following laws:

- a. Driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, or in violation of an alcohol restriction;
  - b. Driving or attempting to drive while impaired by any drug, any combination of drugs, or any combination of one or more drugs and alcohol or while impaired by any controlled dangerous substance;
  - c. Failure to stop, give information, or render reasonable assistance in the event of an accident resulting in bodily injury to or death of any person ([TR 20-102](#), [TR 20-104](#));
  - d. Driving or attempting to drive a motor vehicle while the driver's license or privilege to drive is suspended or revoked;
  - e. Failure to stop or give information in the event of an accident resulting in damage to a vehicle or other property ([TR 20-103](#), [TR 20-104](#), [TR 20-105](#));
  - f. Fleeing or attempting to elude a police officer;
  - g. Driving or attempting to drive a vehicle without a license ([TR 16-101](#));
  - h. Falsifying tag or MVA document or possessing same with fraudulent intent ([TR 14-110](#) (b), (c), (d), or (e)); or
  - i. Unauthorized driving in race or speed contest that results in serious bodily injury to another person ([TR 21-1116\(a\)](#))
3. OR is a non-resident and the violation contributed to an accident
  4. OR committed a violation and refused to acknowledge receipt by signature ([TR 26-203](#)) ([TR 26-202](#))

NOTE: While Maryland law allows warrantless arrest for refusing to acknowledge receipt by signature, members must be guided by [Policy 906, Traffic Citations](#), which directs members how to handle refusals to sign.