


University of Pennsylvania Police Department 4040 Chestnut Street, Philadelphia, Pa 19104		
Directive: 10	Subject: Limits Of Authority	Effective Date: 05/28/1996
Order of: Maureen S. Rush, Superintendent of Police		Amended Date: 05/26/2021

I. Purpose

The purpose of this directive is to define the University of Pennsylvania Police Department's (UPPD) scope and limits of authority as it pertains to the enforcement of laws, statutes, ordinances, and arrests, as well as the legally mandated authority to carry and use weapons by officers of the department in the performance of their duties.

II. Policy

The legislative authority for campus police, as well as the specific authority to carry and use firearms has been established by:

- A. the Commonwealth of Pennsylvania's Title 71, Consolidated Statutes, P.S. Section 2416 of the Administrative Code of 1929, as amended, which states that Campus Police Officers have the power and duty to enforce good order, protect property, make arrests as provided by law and to exercise the same powers as are exercised by the police in the municipality wherein this college or university is located, while on the grounds or within 500 yards of the grounds of the college or university. For purposes of applying the provisions of 42 Pa.C.S.A. Ch. 89 Subch. D, the grounds and within 500 yards of the grounds of the college or university shall constitute the primary jurisdiction of the campus police; and
- B. their compliance with the Commonwealth of Pennsylvania's training requirements for law enforcement officers as established by the Municipal Police Education and Training Law, Act of June 18, 1974, P.L.359, No. 120, as amended June 28, 1993, P.L.174, No. 35, which states any campus police or university police department as used in section 2416 of the Act of April 9, 1929 (P.L.177, No. 175), known as "The Administrative Code of 1929," which has been certified by the Office of Attorney General as a criminal justice agency within the meaning of the Criminal History Record Information Act, 18 Pa. C.S.A. Ch. 91 (relating to criminal history record information), but shall not include any campus police or university police department of the State System of Higher Education and its member institutions; and

- C. the "Commonwealth vs. Mitchell, 554 A.2d 542, 381 Pa. Super. 592, 1989" which states that "Premises" and "grounds and buildings," on which campus police have authority to arrest a person are not limited to educational and residential grounds, but also include commercial property of college or university for investment purposes; and
- D. Title 42, P.S. Sections 8951, et seq., referencing "Municipal Police Jurisdiction" as it pertains to primary and Statewide police jurisdiction.

III. Scope

This directive shall affect all sworn police officers.

IV. Procedures

A. Limits Of Authority

1. Limitations on law enforcement authority are derived from statutes, federal, state, and local judicial interpretation of laws, opinions of the Attorney General and Commonwealth Attorney, departmental policies/rules and regulations, and University administrative decisions.
2. Judicial Limitations
 - a. Fifth Amendment right against self -incrimination: Case law covering Miranda warnings (Miranda v. Arizona, 384 US 436, 1966) has established several guidelines for officers to help decide when the warnings must be administered. If a person is taken into custody and subject to interrogation, Miranda warnings must be administered. As to what constitutes "custody," if the suspect is not free to leave and he/she reasonably believes that he is not free to leave, then he/she is in custody. In determining if a suspect is free to leave the police officer's presence, a court will look at the circumstances of the interview: if police questioning is conducted in a police car or at a police station, the environment may be construed a coercive one, and the interview custodial. Concerning the interrogation, if officers conduct routine, preliminary questioning near or at the scene of an investigation, no "custodial interrogation" exists and Miranda is not required. When the questioning focuses on specific behavior concerning a specific offense, then Miranda is required. To repeat, Miranda must be administered when:
 - 1) the suspect is in custody; and
 - 2) the suspect reasonably believes he cannot leave; and
 - 3) the suspect is subject to interrogation.

- b. Miranda warnings are required and shall be administered prior to a "custodial interrogation" as defined above.
- c. Uniformed police officers will not question suspects on specific behavior concerning a specific offense. Consequently, uniformed officers will not administer Miranda warnings. If a suspect makes a res gestae statement (a statement made spontaneously concurrent to the incident), uniformed officers will document such statements on the incident report.
- d. UPPD or Philadelphia Police Department (PPD) Detectives will conduct "custodial interrogations" of UPPD prisoners. They are therefore the only personnel that will administer Miranda warnings as outlined in Directive 33, "Interrogations And Confessions."

B. Search And Seizure

1. The Fourth Amendment guarantees the right for people to be free from unreasonable searches and seizures of their homes, persons, and things. The Supreme Court is constantly interpreting the Fourth Amendment as it applies to police conduct. Illegally seized items of evidence will not be admitted in court and may be cause for a lost criminal case. Additionally, an illegally conducted search invites civil suits under the Civil Rights Act. In order to ensure that Fourth Amendment rights are protected, officers will obtain search warrants upon probable cause except the following:
 - a. Consent Searches - The consent must be voluntarily given by someone who has the authority to relinquish his/her right. When an officer has stopped a motorist for traffic violations, he/she must have reasonable grounds to believe that contraband or evidence is in the vehicle, prior to requesting a consent search. When exercising a consent search, the officer will obtain a written relinquishment by completing the UPPD "Waiver of Rights and Consent to Search" form (UPPD-55). Officers should carefully observe the court-imposed considerations in determining whether consent was voluntarily given. Further, consent may be withdrawn at any time and the search must be discontinued until a warrant can be obtained.
 - b. Exigent Circumstances - An emergency must exist and the primary motive to protect property or people and the area searched must be associated with the emergency.
 - c. Plain View - The plain view exception to the search warrant requirement applies when officers are lawfully present where they observe the item, and the item is inadvertently discovered and immediately recognized as evidence of a crime or contraband.
 - d. Search Incident to Arrest - Searches incident to arrest are limited to areas and clothing immediately accessible to the person arrested. The purpose of the search is to prevent

the arrestee from securing weapons or destroying contraband. Once a person is secured and placed in police custody, areas not immediately accessible would include any locked case (i.e. briefcase, suitcase, etc.), or any part of a vehicle from which the arrestee was removed. Once an arrestee is removed from a vehicle and under police control, the vehicle cannot be searched without a search warrant.

- e. Pat Down "Terry" Search - An officer may stop a person when he/she has reasonable suspicion that criminal activity is afoot. If the officer has further articulable facts that the person is armed and dangerous, the officer may conduct a "Pat-Down Frisk" of the clothing for the purposes of discovering weapons. If the officer feels an object that is immediately apparent to be a weapon or contraband, the officer may retrieve that object. An officer may also search the passenger compartment of an automobile, limited to those areas in which a weapon may be placed or hidden, if the 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.
- f. Automobile Exception - The automobile exception to the warrant requirements only applies when there is both probable cause, and exigent circumstances. When an officer has probable cause and enough time to secure a search warrant, a warrantless search of the car will be suppressed.
- g. Abandoned Property - Examination of property that has been voluntarily abandoned on public property is technically not a search.
- h. Crime Scenes - Officers may conduct a warrantless entry of residences under the following conditions:
 - 1) Consent by tenant or owner. Officers will document consent by completing a UPPD-55, "Waiver of Rights and Consent to Search Form". Officers will obtain the signature of the tenant or owner on the form.
 - 2) Probable cause.
 - a. To believe someone in the premises is armed and dangerous.
 - b. To believe someone's life or personal safety is in danger.
 - c. To believe a serious crime is being committed in the officer's presence and the likelihood the offender would escape if time is taken to obtain a warrant or that evidence of crime would be destroyed.

- i. Seized Vehicles: Officers shall conduct inventory searches of seized vehicles for the purpose of looking for valuables contained in a vehicle in police custody to assure the safekeeping of any such valuables. Officers shall not conduct an inventory search if the sole purpose in conducting the search is to find evidence of a crime.

C. Probable Cause

1. Most searches, and all arrests, are based on the police officer's perception of probable cause. According to the Supreme Court, "Probable cause exists where the facts and circumstances within their (the arresting officers') knowledge and of which they had reasonable trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed."

D. Eyewitness Identification (Confrontation Or Stand-Up)

1. The Supreme Court has set forth guidelines to be followed when eyewitness identifications are solicited by officers. Eyewitness identifications may take the following form:
 - a. On-scene Confrontation or Stand-up - A confrontation or stand-up shall be afforded to persons suspected of committing a crime. The identification procedures will be non-suggestive and will not prejudice the rights of any person identified. A confrontation is a face to face encounter for identification purposes between a witness/complainant and a suspect. Confrontations have been deemed to be improperly suggestive by the Supreme Court unless justified by prevailing circumstances. Examples of the type of circumstances that justify a confrontation are:
 - 1) Eyewitness/complainant may die or become otherwise unavailable during the period it would take to set up a formal stand-up.
 - 2) If there is probable cause to arrest a suspect who is located within a reasonable time (within 1/2 hour) of the commission of a crime and it is necessary to immediately determine whether the right person has been apprehended or whether to continue the search for suspects.
 - 3) Suspect requests an immediate confrontation. A neutral witness should be present when the suspect requests a confrontation and his/her name must be recorded. If it is not advisable or possible, there is no duty to arrange a confrontation merely because it is requested by the accused.
2. If an officer stops a suspect and is justified by one of the above prevailing circumstances, he/she will:

- a. Detain the suspect at the location of the stop. Explain to the suspect why he/she is being investigated. Do not have the suspect transported to the complainant/witness for identification purposes unless:
 - 1) Emergency circumstances exist which justify transporting the suspect to the witness/complainant.
 - a. Example: Witness/complainant is hospitalized or is physically handicapped where it would be impractical or a hardship to transport them.
 - b. Contact the PennComm Center by radio and state the location of where the confrontation is to take place and request that the complainant/witness be transported to that location for identification purposes as soon as possible. If multiple complainants/witnesses are involved they are to be transported separately to the location of the stop.
 - c. Do not have suspected fruits of the crime or other articles in question transported to the witness/complainant for identification purposes unless the suspect consents to their transportation as previously set forth, or the suspect has abandoned the items.
- 3. Conversations or other actions that suggest to the complainant or witness that the suspect is the actual offender must be avoided.
 - 4. The suspect shall not be placed in handcuffs or other physical restraints either at the time consent is sought or while being presented to the complainant or witness
 - 5. The officer shall, whether a confrontation takes place or not, prepare an Incident Report (UPPD-10), listing the name, address, age, race, sex, clothing worn, location of stop, and articulation of the reason for the stop.
 - a. If a confrontation takes place, the officer transporting the complainant/witness will instruct him/her as to the identification process. The complainant/witness must be informed that they are to articulate whether or not they can identify the subject stopped; and the level of certainty of their identification. If the complainant/witness identifies the suspect as the actor with certainty, the officer shall place the actor under arrest and process accordingly. The officer will prepare an Incident Report and include the information outlined above.
 - b. If a confrontation takes place, and the complainant/witness could not identify the suspect as the actor with certainty, the officer shall release the suspect (if no other

charges are pending) and indicate clearly on the Incident Report that the complainant/witness could not identify the suspect.

Note: The assigned Detective should record on the Investigative Report the number of confrontations or pedestrian stops made on one particular job.

E. Photographic Line Ups

1. Photographic line-ups are prepared via the J-Net automated system. The J-Net system will automatically compose a line-up containing eight (8) photographs of individuals with similar features; one of which being the suspect's. In situations where more than one eyewitness is available, the same line-up may be utilized however the witnesses should not view the photographic line-up at the same time. Prior to viewing the photographic line-up, the witness shall be instructed as to the requirements for positive identification of a suspect. Further, the witness's level of confidence expressed must be specifically articulated within the report prepared by the assigned detective. The detective showing the photographic line-up to the witness must not be coercive in any way nor will the detective provide any feedback, positive or negative, to the witness.
2. All line-ups must be conducted and documented by detectives as to date, time, place, name of participants and witnesses and location of suspect/participants within the body of the detective's investigative report

F. Limitations On Law Enforcement Authority By Local Courts

1. Occasionally, the local courts may limit law enforcement authority to enforce state statutes and local ordinances. These limitations include, but are not limited to:
 - a. the enforcement of certain parking ordinances;
 - b. the handling of juvenile offenders; and/or
 - c. the issuance of summary citations as opposed to arrests/incarceration.

G. Limitations On Police Authority By Commonwealth Attorney

1. Occasionally, the Commonwealth Attorney may issue opinions to the department that may impose limitations on officers. These areas include, but are not limited to:
 - a. prosecution of certain cases;
 - b. extradition;

- c. enforcement of certain statutes pending opinions from the Attorney General's Office; or
- d. changes in laws/interpretational limitations. Periodically, changes take place which may impose new limitations on police authority or remove or alter existing limitations. Normally, annual updates on such changes are provided by the Commonwealth Attorney. In case immediate changes in departmental operations are required, the Commonwealth Attorney's Office may provide information orally and confirm it in writing.

H. Compliance With Constitutional Requirements During Criminal Investigations

1. UPPD Detectives, when conducting criminal investigations, will take all precautions necessary to ensure that all persons involved are afforded their constitutional safeguards. Detectives will ensure that:
 - a. all statements or confessions are voluntary and non-coercive;
 - b. all persons are advised of their rights in accordance with this directive;
 - c. all arrested persons are taken promptly before the court for formal charging;
 - d. all persons accused or suspected of a criminal violation for which they are being interrogated are afforded an opportunity to consult with an attorney; and
 - e. prejudicial pretrial publicity of the accused is avoided so as not to interfere with a defendant's right to a fair trial.

I. Authority And Procedures For Arrest With Or Without A Warrant

1. General Authority for the Power to Arrest
 - a. The power to arrest, based on probable cause, is granted to certified police officers under the authority of law, and is one of the alternatives available under circumstances that require some form of police action. The General Assembly of Pennsylvania has specifically granted enumerated police powers and duties to university campus police departments, including the power to arrest, as outlined in Title 71 Pa.C.S.A Section 2416 of the Administrative Code of 1929.
 - b. The procedures for arresting persons as outlined in Title 234 (Pennsylvania Rule of Criminal Procedure) in the Pennsylvania Code, are authorized under Article V Sec 10 c of the Constitution of Pennsylvania, are promulgated by the Pennsylvania Supreme Court and establish the procedures for arrest and the subsequent judicial proceedings. They

are procedures only and not legislative authority for the power to arrest in any given circumstance.

- c. All arrests must be based on probable cause; however, not all arrests require a warrant of arrest issued by a judicial authority. Specific legislation authorizes warrantless arrests for any offense(s) committed in the presence of an officer, felony offenses (based on probable cause), or other offenses such as Domestic Violence, Theft, Threats to Person or Property and certain Summary Offenses. The authority and procedures for these types of arrests are outlined below. Even though most arrests are made without a warrant, a warrantless arrest is subject to the same Constitutional standards and judicial review as an arrest with a warrant – sufficient probable cause is a paramount requirement in any type of arrest.

2. Procedures for Arrest with a Warrant:

- a. The police procedures for arrest with a warrant are established under the Pennsylvania Rules of Criminal Procedure, Rules 430, 431, 509, and 513. Additionally, the jurisdiction of the UPPD is within the jurisdiction of the Philadelphia Municipal Court, which is governed by separate rules for criminal procedure that are contained in Chapter 6000, Pennsylvania Rules of Criminal Procedure. These rules govern criminal proceedings in all courts, including courts not of record. All actions of the UPPD involving arrests by warrant for violations of the Penal Laws of the Commonwealth of Pennsylvania must follow these rules.
- b. General requirements for the requesting and issuing of a warrant are established by the Pennsylvania Rules of Criminal Procedure, Rule 119 which provides that:
 - 1) No arrest warrant shall issue but upon probable cause supported by one or more (written) affidavits sworn to before the issuing authority.
 - 2) Officers shall submit an Affidavit of Probable Cause, under the provisions of the Pa.R.Crim.P. Rule 513 with all Criminal Complaints where an arrest warrant is being required or being requested.
 - 3) The Affidavit of Probable Cause must provide the same degree of specificity as required for search warrants.

Note: All requests for warrants by the UPPD shall be made by the Detective Unit.

3. Procedures for Arrest Without a Warrant:

- a. The police procedures for arrest without a warrant are established under the Pennsylvania Rules of Criminal Procedure, Rules 440, 441, 502 and 518. Additionally, the rules for the Philadelphia Municipal Court are applicable for UPPD actions occurring within the jurisdiction of that court. Specifically, the Pennsylvania Rules of Criminal

Procedure, Rules 6002 and 6003 outline procedures to be followed for arrests without a warrant for summary and court cases. These rules govern criminal proceedings in all courts, including courts not of record.

4. Authority for Warrantless Arrests:

- a. Warrantless arrest is authorized when the offense is a felony or misdemeanor committed in the presence of the officer making the arrest.
- b. Warrantless arrest is authorized based upon probable cause when the offense is a felony.
- c. Warrantless arrest is authorized upon probable cause when the offense is a misdemeanor not committed in the presence of the officer making the arrest, when such arrest without a warrant is specifically authorized by statute.
- d. Warrantless arrests are specifically authorized by statute for the following offenses:
 - 1) Domestic Violence: Under Title 18 (Crimes Code of Pennsylvania) Pa C.S.A. SS 2711, officers shall have the same right of arrest without a warrant as in a felony whenever he/she has probable cause to believe the defendant has violated the Pennsylvania Crimes Code sections 2701 (related to simple assault), 2702(a)(3), (4), and (5) (related to aggravated assault), or 2705 (related to recklessly endangering another person) against his spouse or other person with whom he resided or has formerly resided although the offense did not take place in the presence of the police officer if the officer first observed recent physical injury to the victim or other collaborative evidence of the offense(s).
 - 2) Theft: Under Title 18 (Crimes Code of Pennsylvania) Pa C.S.A. SS 3904. Officers shall have the same right of arrest without a warrant for any grade of theft as exists or may hereafter exist in the case of the commission of a felony.
 - 3) Traffic Violations of Non-Residents: Under Title 75 (Vehicle Code of Pennsylvania) Pa C.S.A. SS 6304, Authority to Arrest Without a Warrant.
 - a. Officers may arrest any non-resident who violates any provision of this title in the presence of the officer making the arrest.
 - b. Upon arrest of a non-resident under this Section, the officer shall proceed in accordance with the provisions of 75 Pa C.S.A. SS 6305.

- 4) Dangers to Person or Property: Under Title 42 (Judiciary) Pa C.S.A. SS 8902 authorizes arrest without warrant under Title 18 when a police officer has probable cause from viewing ongoing conduct which imperils the personal security of any person or endangers public or private property when such conduct constitutes certain summary offense(s). Those summary offenses are: Disorderly Conduct (5503), Public Drunkenness (5505), Obstructing Highway (5507) and Underage Purchase/Possession of Liquor (6308).
- 5) When making such arrests without warrants, police officers are to follow the Pennsylvania Rules of Criminal Procedure, Part IV: "Procedures in Summary Cases When Defendant is Arrested Without a Warrant".

J. Alternatives To Arrest and/or Pre-Arrest Confinement

1. The power of arrest granted to police officers is one of the alternatives available to them under circumstances that require some form of police action. An additional alternative that is effective and still allows an officer an alternative to arrest and/or pre-arrest confinement is the issuance of summary citations:
 - a. Procedure in Summary Cases - Chapter 50 of the Pa. Rules of Criminal Procedures, Title 234, outlines the procedures to be used in summary cases. Rule 71, Procedure Following Arrest Without Warrant, states:
 - 1) When a defendant has been arrested without a warrant, the defendant shall be either released from custody pursuant to paragraph (b) or taken before the proper issuing authority under paragraph (c).
 - 2) When a defendant has been arrested without a warrant, the arresting officer may, when the officer deems it appropriate, promptly release the defendant from custody when the following conditions have been met:
 - a. the defendant is a resident of the Commonwealth;
 - b. the defendant poses no threat of immediate physical harm to any other person or to himself or herself;
 - c. the arresting officer has reasonable grounds to believe that the defendant will appear as required; and
 - d. the defendant does not demand to be taken before an issuing authority.

- 3) When a defendant is released pursuant to Rule 71, the officer must then follow Chapter 50, Part IIA, of the Pa. Rules of Criminal Procedures, Procedures When a Citation Is Issued to Defendant.

K. Use Of Discretion By Officers

1. Discretionary power is the power of free decision, or latitude of choice within certain legal bounds. When this power is poorly exercised, discretionary power may be viewed by the public as favoritism, bias or corruption.
2. Officers, by the nature of their job, are required to exercise discretion in the performance of their duties. The UPPD provides officers with written policy and procedures, departmental orders, directed patrol assignments, and training in order to aid them in making decisions which govern discretion in performing their duties.
3. With the exception of UPPD rules and regulations, UPPD policy generally gives officers guidelines to consider in exercising their discretion. It is up to the individual officer to consider the relevant facts, the situation, and then, using knowledge, training and good judgment, make appropriate decisions. Supervisors must closely observe the use of discretion by their subordinates and point out factual errors or alternatives that may be more appropriate.
4. Discretionary actions shall never in any way be based upon or influenced by race, color, religion, ethnic or national origin, sex, sexual orientation, pregnancy, child care needs, age or disability of any person.

L. Informal Handling Of Criminal Matters

1. Officers often deal with situations where the public interest would be better served by social service agencies or crisis and professional organizations. When, in the judgment of the officer, a better solution to the problem will be achieved by use of alternatives to enforcement, he/she should refer the person to a social services agency.

M. Use Of Warnings As An Alternative To Arrest

1. The use of warnings may sometimes provide a satisfactory solution to a problem and may enhance the public perception of the UPPD. Normally, the use of a warning occurs in traffic offenses, but occasionally may be applied to criminal offenses. In determining if a warning should be issued, the officer should consider:
 - a. the seriousness of the offense;
 - b. the likelihood that the violator will heed the warning; or

- c. the reputation of the violator (i.e., known repeat offender, has received previous warnings).

N. Compliance

Violations of this directive, or portions thereof, may result in disciplinary action.

O. Officers Assigned To Other Agencies

Officers of this department assigned to or assisting other law enforcement agencies will be guided by this directive.

P. Application

This directive constitutes departmental policy, and is not intended to enlarge the employer's or employee's civil or criminal liability in any way. It shall not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims insofar as the employer's or employee's legal duty as imposed by law. Violations of this policy will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.