



# Policy 107

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<b>OFFENSE CLEARANCE PROCEDURE</b>	
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*By Order of the Police Commissioner*

## POLICY

It is the policy of the Baltimore Police Department (BPD) to classify Part I and Part II Offenses consistent with the Uniform Crime Reporting (UCR) Program.

## GENERAL

The UCR Program collects and reports crime offense data and is administered by the Federal Bureau of Investigation (FBI). All criminal offenses of law will be classified as either Part I or Part II offenses and “cleared” according to guidelines in this program. The offense clearance procedures only relate to the use of the UCR Program and do not necessarily determine when an active investigation may be administratively closed by the BPD. A case can only be cleared in the UCR Program in the following three ways:

1. Arrest: To include the service of citations and warrants.
2. Exception: An Exceptional Clearance must include the following elements (see Appendix A for examples):
  - 2.1. The identity of the suspect is known; and
  - 2.2. There is enough information to charge; and
  - 2.3. The location of the suspect is known; and
  - 2.4. There are reasons outside law enforcement control that preclude arresting the suspect.
3. Unfounded Offense: This classification is applied when police investigation clearly establishes that the alleged incident is false or baseless, and no offense actually occurred or was attempted. Any conclusion of “unfounded” must be fully supported by written facts from which the reviewer will arrive at the same conclusions as the investigating officer. The following also applies to unfounded offenses:
  - 3.1. The mere refusal of the victim to cooperate in an investigation or prosecution cannot be the sole basis to unfound an incident.
  - 3.2. The refusal of the victim to cooperate in an investigation or prosecution is sufficient grounds for exceptionally clearing an incident when the above elements are otherwise met.
  - 3.3. The findings of a medical examiner/coroner, court, jury, or prosecutor alone, do not

unfound offenses or attempts, which law enforcement investigations establish to be legitimate.

## **REQUIRED ACTION**

### **Member**

1. When making a request for a clearance, submit a copy of the original offense report, along with the appropriate supplement, to your supervisor.
2. If the case is cleared by exception, upon approval notify the victim that his or her case has been cleared by exception, explain the reason(s) for the clearance, and document the clearance in the case management system.

### **Supervisor**

1. Review reports and select one of the following case status boxes:
  - 1.1. Open — Select if the initial case report has been completed and an investigation is imminent or actively being conducted.
  - 1.2. Closed — Select when every logical avenue of the investigation has been exhausted without resolution of the case.
2. Review reports and select one of the following case disposition boxes:
  - 2.1. Cleared — Select only if the case results in an arrest, Exceptional Clearance and/or is deemed unfounded.
  - 2.2. Not Cleared — Select when the case is not cleared.

**NOTE:** When a suspect is identified but not arrested or charged and there are questions as to the sufficiency of evidence, probable cause for arrest, or other legal issues, contact an Assistant State's Attorney before clearing the case by exception.

3. Review and forward reports requesting Exceptional Clearances to the designated member within your command via official channels.

**NOTE:** When requesting an Exceptional Clearance, do not indicate the case disposition on the report until it has been returned to you by command with either an approval or a written recommendation.

### **Commanding Officer/Unit Commander**

1. Review requests for Exceptional Clearances coming under the purview of your authority, ensuring all UCR criteria are satisfied prior to granting approval.

**NOTE:** Command members are encouraged to seek advice from an Assistant State's Attorney when there is a question as to the sufficiency of evidence, probable cause for arrest or other legal issues.

2. Upon approving the request for an Exceptional Clearance, indicate same in the narrative section of the offense report:
  - 2.1. Print: "I concur with the recommendation for Exceptional Clearance."
  - 2.2. Print your full name, rank and date.
  - 2.3. Sign your full name.
3. Upon disapproving the request for Exceptional Clearance, forward the report back to the investigating officer, via official chain of command, with your written recommendation.

**Commanding Officer, Records Management Section**

Ensure the integrity of the BPD's UCR System via your final authority in all UCR matters.

**APPENDICES**

- A. Exceptional Clearance Examples.
- B. Exceptional Clearance Authority/Part I and Part II Offenses.
- C. Uniform Crime Reporting Offense Definitions (Part I and II).

**ASSOCIATED POLICIES**

Policy 703, Death and Serious Assault Investigations  
Policy 708, Rape and Sexual Assault  
Policy 709, Kidnapping/Extortion/Abduction Investigations  
Policy 721, Arson Investigations  
Policy 723, Animal Abuse, Cruelty and Severe Neglect  
Policy 1008, Investigative Operations

**RESCISSION**

Remove from files and destroy/recycle General Order A-7, *Offense Clearance Procedure*, dated 8 April 2004.

**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****Exceptional Clearance — Examples**

**NOTE:** The following are examples of offenses that may be Exceptionally Cleared. The list is not all-inclusive and there may be other circumstances when a law enforcement agency is entitled to an Exceptional Clearance.

1. Victim refuses to cooperate in the prosecution (this action does not “Unfound” the offense). The incident may be Exceptionally Cleared if the identity of the suspect is known, there is enough information to charge the suspect, and the location of the suspect is known.
2. Suicide of the offender (the person responsible is deceased).
3. Double murder (two persons killed each other).
4. Deathbed confession (the person responsible dies immediately after making the confession).
5. Offender is killed by police or a citizen.
6. Confession by offender already in custody or serving sentence on another charge.
7. Offender is prosecuted by state or local authorities in another city for a different offense or prosecuted in another city or state by the Federal government for an offense, which may or may not be the same (Note: an attempt is made to return the offender for prosecution but the same jurisdiction will not allow the release).
8. Extradition is denied.
9. Warrant is outstanding for a felon but before being arrested the offender dies of natural causes, as a result of an accident, or is killed in the commission of another offense.

**APPENDIX B****Exceptional Clearance Authority / Part I and Part II Offenses**

1. Part I Offenses (Homicide and Rape only)
  - 1.1. While not required by UCR criteria, an Assistant State's Attorney shall be consulted for Exceptional Clearances for Homicide and Rape. Approving authority for an Exceptional Clearance shall be granted by the Chief, Criminal Investigation Division.
  - 1.2. Ultimate authority for granting an Exceptional Clearance rests with the Commander, Records Management Section.
2. Part II Offenses
  - 2.1. Approving authority for an Exceptional Clearance shall be granted by the Chief, Criminal Investigation Division.
  - 2.2. Ultimate authority for granting an Exceptional Clearances rests with the Commander, Records Management Section.

**NOTE:** When the suspect is a juvenile and the case is within the jurisdiction of the Juvenile Court, contact the Chief, Juvenile Division of the Office of the State's Attorney, (443) 263-8100, for approval. The Chief, Criminal Investigation Division may delegate his clearance authority, as necessary, for efficient management.

## APPENDIX C

### **Uniform Crime Reporting Offense Definitions / Part I and Part II Offenses**

Offenses in UCR are divided into Part I and Part II offenses. Information on the number of Part I offenses known to law enforcement, those cleared by arrest, exceptionally cleared, and the number of persons arrested, are reported monthly. Only arrest data is reported for Part II offenses.

#### **Part I — Violent Crimes**

**Criminal Homicide** — Murder and non-negligent manslaughter: the willful (non-negligent) killing of one human being by another. Deaths caused by negligence, attempts to kill, assaults to kill, suicides, accidental deaths, and justifiable homicides, are excluded. Justifiable homicides are limited to: (1) the killing of a felon by a law enforcement officer in the line of duty; and (2) the killing of a felon, during the commission of a felony, by a private citizen. Manslaughter by negligence: the killing of another person through gross negligence. Traffic fatalities are excluded. While manslaughter by negligence is a Part I crime, it is not included in the Crime Index.

**Rape (Includes Attempt)** — Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Robbery (Includes Attempt)** — The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault (Includes Attempt)** — An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Simple assaults are excluded.

#### **Part I — Property Crimes**

**Burglary (Breaking or Entering)** — The unlawful entry of a structure to commit a felony or a theft. Attempted forcible entry is included.

**Larceny Theft (except motor vehicle theft)** — The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles or automobile accessories, shoplifting, pocket picking, or the stealing of any property or article, which is not taken by force and violence or by fraud. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

**Motor Vehicle Theft** — The theft or attempted theft of a motor vehicle. A motor vehicle is self-propelled and runs on the land surface and not on rails. Specifically excluded from this category are motorboats, construction equipment, airplanes, and farming equipment.

**Arson** — Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**PART II OFFENSES**

**Other Assaults (simple)** — Assaults and attempted assaults where no weapon is used and which do not result in serious or aggravated injury to the victim.

**Forgery and Counterfeiting** — Making, altering, uttering, or possessing, with intent to defraud, anything false in the semblance of that which is true. Attempts are included.

**Fraud** — Fraudulent conversion and obtaining money or property by false pretenses. Included are confidence games and bad checks, except forgeries and counterfeiting.

**Embezzlement** — Misappropriation or misapplication of money or property entrusted to one's care, custody, or control.

**Stolen Property: Buying, Receiving, Possessing** — Buying, receiving, and possessing stolen property, including attempts.

**Vandalism** — Willful or malicious destruction, injury, disfigurement, or defacement of any public or private property, real or personal, without consent of the owner or persons having custody or control.

**Weapons: Carrying, Possessing, etc.** — All violations of regulations or statutes controlling the carrying, using, possessing, furnishing, and manufacturing of deadly weapons or silencers. Included are attempts.

**Prostitution and Commercialized Vice** — Sex offenses of a commercialized nature, such as prostitution, keeping a bawdy house, procuring, or transporting women for immoral purposes. Attempts are included.

**Sex Offenses (except forcible rape, prostitution, and commercialized vice)** — Statutory rape and offenses against chastity, common decency, morals, and the like. Attempts are included.

**Drug Abuse Violations** — State and/or local offenses relating to the unlawful possession, sale, use, growing, and manufacturing, of narcotic drugs. The following drug categories are specified: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics-manufactured narcotics that can cause true addiction (demerol, methadone); and dangerous nonnarcotic drugs (barbiturates, benzedrine).

**Gambling** — Promoting, permitting, or engaging in illegal gambling.

**Offenses Against the Family and Children** — Nonsupport, neglect, desertion, or abuse, of family and children.

**Driving Under the Influence** — Driving or operating any vehicle or common carrier while drunk or under the influence of liquor or narcotics.

**Liquor Laws** — State and/or local liquor law violations, except "drunkenness" and "driving under the influence." Federal violations are excluded.

**Drunkenness** — Offenses relating to drunkenness or intoxication. Excluded is "driving under the influence."

**Disorderly Conduct** — Breach of the peace.

**Vagrancy** — Begging, loitering, etc.

**All other Offenses** — All violations of state and/or local laws except those listed above and traffic offenses.

**Suspicion** — No specific offense; suspect released without formal charges being placed.

**Curfew and Loitering Laws (persons under age 18)** — Offenses relating to violations of local curfew or loitering ordinances where such laws exist.

**Runaways (persons under age 18)** — Limited to juveniles taken into protective custody under provisions of local statutes.