
	BRANDEIS UNIVERSITY POLICE DEPARTMENT AUTHORITY & JURISDICTION	
Policy Number:	1.4.8	PAGE: 1 of 13
Policy Type:	GENERAL ORDER	
Issue Date: 8.29.2023 Review Date: 8.29.2025 Revised:	Issuing Authority:  Chief Matthew T. Rushton	
Accreditation Standards (6th Edition) <ul style="list-style-type: none"> • New 2.1.1, 2.1.2, 2.1.4, 16.3.0 • Revised • Amended 		

I. PURPOSE

The purpose of this policy is to define the legal authority vested in all sworn members (full-time and reserve) of the Brandeis University Police Department. This policy defines and explains the scope and limits of an officer’s law enforcement authority as it pertains to the enforcement of laws, statutes, and ordinances. This policy also delineates the specific geographic boundaries of the Brandeis University Police Department’s jurisdiction. [16.3.0]

II. LEGAL AUTHORITY

The primary source of police arrest authority for all College and University police officers in the Commonwealth of Massachusetts is Chapter 22C, Section 63 of the Massachusetts General laws, which allows college and university police officers to be appointed as Special State Police Officers under the authority of the Colonel of the Massachusetts State Police. [16.3.0]

Brandeis University Police Officers who have been sworn in and appointed as Special State Police Officers have the “...same power to make arrests as regular police officers for any criminal offense committed in or upon lands or structures owned, used, or occupied by...” Brandeis University. The full text of M.G.L. Ch. 22C § 63 is attached as Appendix A to this policy (source: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter22C/Section63>). [16.3.0]

The Brandeis University Police Officer’s scope of authority as a Special State Police Officer allows for the power to make arrests and preserve the peace on property owned, used or occupied by Brandeis University. These powers shall be invoked by the officer only while on duty and only within the geographical boundaries of the University, except when a delay in invoking such powers would likely result in death or serious bodily harm to themselves or others. Officers shall also recognize that their primary duty and responsibility is to the persons and property of the employing institution. Officers shall neither encroach nor infringe upon the responsibilities and functions of other law enforcement agencies unless requested to do so. Officers shall also seek

authorization from a shift supervisor when responding to off campus requests for assistance from other law enforcement agencies. [16.3.0]

A copy of the map depicting the specific geographical boundaries of the Brandeis University Police Department's jurisdiction is attached to this policy as Appendix B and shall be posted within the department located in dispatch. [2.1.1(2)]

III. JURISDICTIONAL GUIDELINES

There are two Massachusetts court decisions that concern Special State Police Officer's jurisdiction: Commonwealth vs. Smeaton, 465 Mass. 752 (2013) and Commonwealth vs. Young, 64 Mass. App. Ct. 586 (2005). For guidelines concerning jurisdictional issues, see Appendix C, from the Massachusetts Association of Campus Law Enforcement Administrators. [2.1.1]

IV. DEPUTY SHERIFF CONSIDERATIONS

As a condition of employment, Brandeis University Police Officers may also be required to take the oath of office as a Deputy Sheriff in Middlesex County, pursuant to Massachusetts General Laws, Ch. 37, § 3. The purpose of this appointment is to strengthen an officer's legal standing to make an arrest in areas near Brandeis University. Officers are authorized to exercise their authority as Deputy Sheriffs only while on active duty and any action must be within the scope of an officers duties and responsibilities. Officers are not authorized to use their authority as Deputy Sheriffs to serve civil process or to enforce civil motor vehicle violations under M.G.L. Chapters 89 and 90.

The University will indemnify and defend Brandeis University police officers against legal claims arising from actions taken during the course of their employment when they are acting in good faith in accordance with law and department policy. However, the University may choose not to indemnify and defend officers if claims arise from the abuse or misuse of police powers when such actions violate law or department policy or fall outside the scope of ones duties and responsibilities.

V. WALTHAM POLICE AND STATE POLICE JURISDICTION

The campus of Brandeis University lies in the City of Waltham, MA. Accordingly, this department, the Waltham Police Department and the Massachusetts State Police have concurrent jurisdiction on the property of Brandeis University. [2.1.2]

While there are no written agreements between this department and the Waltham Police Department, the Brandeis University Police Department shall retain primary jurisdiction for all crimes except in the case of murder. In the case of murder and an unattended death, the State Police Detectives Unit assigned to the Middlesex County District Attorney Office and the Waltham Police Department will be notified. If a serious felony should occur on campus, the State Police Unit assigned to the Middlesex County District Attorney Office and the Waltham Police Department may be notified to assist in the investigation. Prior to making any such notification, the Chief of Police or his/her designee will be notified. [2.1.2 (B)]

Historically, the Brandeis University Police Department has maintained a strong relationship with the Waltham Police Department. This department depends on the Waltham Police Department for usage of their holding facilities and other services. However, the Brandeis University Police Department should only request assistance from the Waltham Police Department for matters this department are unable to handle, are lacking in expertise, or during instances when the department is or could become overwhelmed. Requests for assistance made to the Waltham Police Department will be cleared through a supervisor or OIC. Any requests made to the Waltham Police Department for assistance or assistance this department provides to the Waltham Police Department will be documented. [2.1.2 (B)]

Police cruiser radios, officer's portable radios and radios in dispatch are programmed to communicate and monitor the Waltham Police Department. The secondary radio in dispatch should be set to Waltham PD 1 unless the radio is needed to communicate with another University department. Police cruiser and officer portable radios should be set to scan. [2.1.2 (1C)]

VI. STATE/FEDERAL LAW ENFORCEMENT OR NATIONAL GUARD ASSISTANCE

A. Requesting State/Federal Law Enforcement Assistance:

1. In the event that it becomes necessary to request the assistance of any state or federal enforcement agency and/or any state or federal law enforcement resources (DEA, ATF, FBI, ICE, Secret Service) in emergency situations, the following procedure shall be followed: [2.1.4 (1A)]
 - i. The officer in charge at the time of the incident shall contact the appropriate supervisor and advise him/her of the situation and of the assistance or resources required.
 - ii. The supervisor should notify the Chief, who shall determine that the requested state/federal assistance is necessary.
 - iii. In the event that the decision is made to request state or federal assistance, then the Chief, or his/her designee, shall be responsible to request or cause to be requested the necessary assistance.
 - iv. In the event that state or federal assistance is made available, the Chief or his/her designee, shall appoint a liaison officer to coordinate all joint activities until such time as the emergency situation no longer exists.

B. Requesting National Guard Assistance: [2.1.4 (1B)]

1. In the event of an emergency situation on campus, requiring the assistance of the Massachusetts National Guard, the following procedures should be followed:
 - i. The Chief, or his/her designee, shall evaluate the situation and determine what resources might be needed to resolve the crisis.

- ii. If the decision to request assistance of the National Guard is made, then the Chief, or his/her designee, shall make the request through the proper University channels. The President of Brandeis University or his/her designee would then make the request to the Governor of the Commonwealth of Massachusetts.
 - iii. Pursuant to the Massachusetts General Laws, only the Governor, or his/her designee, may request assistance from the National Guard.
2. If circumstances should dictate, the Governor of Massachusetts has the power to declare martial law.

Appendix A:

Part I	ADMINISTRATION OF THE GOVERNMENT
Title II	EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH
Chapter 22C	THE DEPARTMENT OF STATE POLICE
Section 63	EMPLOYEES OF COLLEGES, UNIVERSITIES, OTHER EDUCATIONAL INSTITUTIONS AND HOSPITALS; APPOINTMENT AS SPECIAL OFFICERS

Section 63. The colonel may, upon such reasonable terms and conditions as may be prescribed by him, at the request of an officer of a college, university, other educational institution or hospital licensed pursuant to section fifty-one of chapter one hundred and eleven, appoint employees of such college, university, other educational institution or hospital as special state police officers. Such special state police officers shall serve for three years, subject to removal by the colonel, and they shall have the same power to make arrests as regular police officers for any criminal offense committed in or upon lands or structures owned, used or occupied by such college, university, or other institution or hospital.

Each application for appointment as a special state police officer or a renewal thereof shall be accompanied by a fee, the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven.

The colonel may promulgate such rules and regulations as may be necessary to ensure proper standards of skill; provided, however, that such officers shall remain subject to certification requirements of the Massachusetts peace officer standards and training commission established in chapter 6E. Said rules and regulations shall conform to the provisions of chapter thirty A.

Appendix B:



JURISDICTION GUIDELINES **for** **SPECIAL STATE POLICE OFFICERS**

Issued October 29, 2013

Special State Police Officers (SSPOs) obtain their primary jurisdiction from G.L. c. 22C, § 63. G.L. c. 22C, § 63¹ grants to college, university, educational institution, or hospital police officers the power to:

- **Exercise law enforcement authority** -- including detentions, arrests and searches.
- **Concerning *any* criminal offense.**
- **Occurring in or on buildings, structures, facilities, lands or roads.**
- **Owned, occupied or used.**
- **By their employing institution.**

The authority to investigate and enforce “any crime” encompasses all felonies and misdemeanors, including motor vehicle offenses. This means that *all* SSPOs may stop vehicles based on a reasonable suspicion of any crime, including vehicle offenses.^{2,3}

- **Priority Offenses.** Specifically, *all* SSPOs may enforce the following high priority crimes involving motorists:
 - Operating under the influence of alcohol or drugs. G.L. c. 90, § 24(1).
 - Operating negligently or recklessly. G.L. c. 90, § 24(2).
 - Leaving the scene after personal injury or property damage. G.L. c. 90, § 24(2).
 - Refusing to stop for a police officer. G.L. c. 90, § 25.
 - Larceny of a motor vehicle. G.L. c. 266, § 28.
 - Use of a motor vehicle without authority. G.L. c. 90, § 24.

- **Low Priority Offenses.** While *all* SSPOs have the authority to enforce the following crimes, SSPOs from private institutions should *not* do so unless absolutely necessary for public safety:
 - Operating after suspension. G.L. c. 90, § 23.
 - Operating without a license. G.L. c. 90, § 10.
 - Uninsured vehicle. G.L. c. 90, § 34J. □ Attaching plates. G.L. 90, § 23.

The reason for this limitation: SSPOs from private institutions may *only* stop vehicles based on a reasonable suspicion of criminal activity. Private SSPOs lack authority to issue citations for civil motor vehicle infractions (CMVIs) unlike SSPOs appointed by state colleges or universities, who may stop vehicles and issue citations for CMVIs.⁴

The crimes of operating after suspension, unlicensed, uninsured and attaching plates – mentioned above -- typically come to light *after* a vehicle has been pulled over for a civil infraction, which private SSPOs may not do in the first instance.

Proper procedure for checking a license plate depends on the reason for “running” the plate.

- **Following a lawful traffic stop.** *All* SSPOs may use their cruiser computer (known as a Mobile Data Terminal or MDT) or contact dispatch to “run” the plate of a lawfully stopped vehicle. The officers may then take appropriate enforcement action based on the result of the plate query. Private SSPOs may not engage in any enforcement of CMVIs that come to light during a lawful traffic stop, although they may contact local police to enforce the infraction or advise the motorist how to resolve the issue.
- **Initiating a “random query.”** *All* SSPOs may “run” plates on a random basis -- provided that: (1) they are not motivated, to any degree, by racial or ethnic bias⁵; and (2) that they initially observe the vehicle operating or parked on campus property.⁶ Based on the results of a proper random query, it is recommended that *all* SSPOs handle a “hit” on a plate in the following manner:
- ***Active default or arrest warrant.*** Approach a stationary vehicle or engage in a traffic stop if the vehicle is being operated. Identify the motorist. If the motorist or any occupant is the person identified as having an active warrant, then arrest should typically follow.

If the vehicle travels beyond campus property, SSPOs may follow and notify the municipal or state police agency of jurisdiction to initiate the traffic stop or provide transferred authority for the SSPOs to initiate the stop.

- ***Driver’s license status or vehicle status at issue.*** Approach a stationary vehicle or engage in a traffic stop if the vehicle is being operated on campus. Briefly detain the driver and/or occupants and interview them about the situation.

Notify them about any illegalities; consider towing the vehicle if appropriate under the campus agency's inventory policy or make alternative arrangements to have the vehicle removed at a later time; or resolve the issue in any other satisfactory manner.

Arrest or a complaint application in these situations is strongly discouraged.

Note: SSPOs at state institutions may issue a citation for any civil infraction (e.g., unregistered, equipment defect) that comes to light.

If SSPOs charge a suspect with a motor vehicle crime, they should make every effort to have the defendant served with a citation.

- **For SSPOs from state colleges and universities.** They may issue the appropriate citation at the time and place of the violation. Citation books may be provided to them by their chief.⁷
- **For private SSPOs.** The registry of motor vehicles does not issue citation books to chiefs from private educational institutions. Therefore, in the event that private SSPOs arrest an individual for a motor vehicle crime, citation service may be accomplished by:
 - ***The campus chief obtaining citations from the municipal chief where the campus is located.*** This may be accomplished through a memorandum of understanding (MOU) or by an informal policy.⁸ The campus chief would then supply a citation through the OIC in the limited cases where an arrest was made for a motor vehicle crime. See Attachment A (suggested language for MOU).
 - ***The campus agency notifying the municipal department with concurrent jurisdiction either at the time of the arrest or in court prior to arraignment.*** Municipal police officers may issue citations on behalf of private SSPOs who make motor vehicle arrests or seek criminal complaints.⁹ This may be done at the time of the motor vehicle stop or shortly after. It may also be done prior to arraignment in court by a police prosecutor from the municipal department. If the citation will not be served until the defendant appears in court, the SSPO should inform him or her of that fact at the time of arrest.
 - ***The campus agency notifying the state police either at the time of arrest or in court prior to arraignment.*** The same authority mentioned above applies to the state police.
- **Arrest or a complaint application should not be delayed or avoided because a citation is not immediately available.** The essential requirement is that SSPOs inform the motorist about the violation and document that fact in an incident report.^{10, 11}

- **Proper post-arrest procedures.** In addition, SSPOs must ensure that all post-arrest procedures are properly conducted – e.g., medical attention (if necessary); thorough search incident to arrest; vehicle inventory and tow; booking process at station; and, in the case of OUI, notification of G.L. c. 263, § 5A rights, and breathalyzer refusal or valid test. If a campus agency does not have a breathalyzer, arrangements should be made with a municipal department or state police barracks.

Smeaton jurisdiction: *All SSPOs may conduct law enforcement activities on public ways routinely “used” by their employing institution.* SSPOs have law enforcement authority on streets that members of the campus community routinely use in order to directly reach property and facilities owned or occupied by their institution.¹² This is referred to as *Smeaton jurisdiction* because it is derived from the SJC’s decision in *Comm. v. Smeaton*, 465 Mass. 752 (2013).

- **Routinely patrolled public ways.** In short, if SSPOs routinely patrol a street to get to campus facilities to perform public safety functions on behalf of their institution, they may investigate and enforce any crimes -- including motor vehicle offenses -- that might be occurring there.
- **Non-routine travel routes.** However, SSPOs should *not* conduct law enforcement activities on public ways that connect clearly different campus locations to each other. For example, Northeastern University SSPOs could stop a vehicle on the public way known as Huntington Avenue, which is adjacent to its main campus. However, if Northeastern SSPOs drove from their Boston campus to the College President’s house and conference center in Wellesley, they should not conduct vehicle stops along the way. This is not their normal patrol route, so they should not engage in law enforcement activities (unless justified by some other legal basis – e.g., transferred authority).

Note: The authority to patrol public ways and engage in enforcement stems from an SSPO’s appointment under G.L. c. 22C, § 63. No Massachusetts appellate court has authorized criminal or civil motor vehicle enforcement on public ways pursuant to other appointment statutes for campus officers – such as G.L. c. 75, § 32A (University of Massachusetts) or G.L. c. 15A, § 22 and G.L. c. 73, § 18 (state universities and community colleges).¹³

Young jurisdiction: *All SSPOs may conduct law enforcement activities off campus – even beyond roads owned, occupied or used by their institution – in certain limited instances.* *Young jurisdiction* refers to the rule established in the case of *Young v. Boston University*, 64 Mass. App. Ct. 586 (2005), which allowed SSPOs to arrest an individual “outside the area which [they] are entrusted to protect, in order to ‘keep the peace and preserve order’ within that area.”¹⁴

In short, SSPOs may assert authority beyond the lands or structures owned, used or occupied by their institution when they are:

- **In the environment near campus.**

- **Attempting to protect people who are affiliated with the campus community, or likely to be visiting or leaving the campus.**

This extended jurisdiction applies when SSPOs determine that a particular student or member of the campus community might be in danger without their intervention. What constitutes the environment near campus has not been specifically defined by an appellate court, so SSPOs should use their commonsense.

¹ G.L. c. 22C, § 63 reads: “The colonel may, upon such reasonable terms and conditions as may be prescribed by him, at the request of an officer of a college, university, other educational institution or hospital licensed pursuant to section fifty-one of chapter one hundred and eleven, appoint employees of such college, university, other educational institution or hospital as special state police officers. Such special state police officers shall serve for three years, subject to removal by the colonel, and they shall have the same power to make arrests as regular police officers for any criminal offense committed in or upon lands or structures owned, used or occupied by such college, university, or other institution or hospital. Each application for appointment as a special state police officer or a renewal thereof shall be accompanied by a fee, the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven. The colonel may promulgate such rules and regulations as may be necessary to ensure proper standards of skill. Said rules and regulations shall conform to the provisions of chapter thirty A.”

² *Comm. v. Smeaton*, 465 Mass. 752 (2013).

³ In the *Smeaton* case, Officer John Wagner, a Special State Police Officer (SSPO) appointed under G.L. c. 22C, § 63, was in a marked cruiser at 1:30 a.m. at the intersection of three public ways in Northampton – Elm, West and Main Street -- next to Smith College. He observed an SUV, driven by Steven Smeaton, speeding on Main Street. Smeaton did not slow down as he turned left onto West Street. He just missed a pedestrian in the crosswalk and, with tires squealing, drove onto the sidewalk and grass in front of an administrative building owned by the college.

Officer Wagner pursued Smeaton past several buildings, a power plant, a parking garage (open 24 hours a day), and athletic facilities owned or occupied by the college along West Street. There were also private buildings that did not belong to Smith. Officer Wagner radioed Northampton Police. He then stopped Smeaton’s SUV. While he conducted a threshold inquiry, Northampton Police arrived and arrested the defendant for OUI and reckless operation. The municipal officer also issued a citation for a “marked lanes violation” based on information supplied by Officer Wagner.

According to the SJC, Officer Wagner was justified in stopping the vehicle and, had he chosen to do so, arresting the defendant for two reasons: (1) Since the street where Wagner made the stop was routinely “used” by Smith College members, it was within SSPO jurisdiction under the language of 22C, § 63; and (2) Wagner’s stop occurred in the vicinity of Smith College and concerned a breach of the peace that might harm people affiliated with the college – a reason approved in *Young v. Boston University*, 64 Mass. App. Ct. 586 (2005).

⁴ *Comm. v. Mullen*, 40 Mass. App. Ct. 404 (1996) (SSPOs at private institutions do not have the power to stop vehicles for CMVIs). In contrast, G.L. c. 90C, § 2A grants to SSPOs at state colleges and universities the authority to issue citations for CMVIs – provided they have undergone certain mandated training. For more information, see Memoranda of William E. McVey, Deputy General Counsel of Mass DOT (dated September 21, 2006 and November 7, 2012).

⁵ *Comm. v. Starr*, 55 Mass. App. Ct. 590 (2002). However, *Starr* noted that officers may not check for license plate information if they are motivated by an occupant’s race or ethnicity.

⁶ *Comm. v. Hernandez*, 456 Mass. 528 (2010) (SSPOs observed the defendant filling his gas tank at a station near campus and ran his plate for no particular reason; the court disapproved the officers’ decision to run the plate and

then follow the defendant onto a highway to conduct a traffic stop and arrest for a default warrant). It is possible to interpret *Comm. v. Smeaton*, discussed in notes 2 and 3, as allowing campus officers to randomly run plates on public ways connecting campus facilities, and to take action on the basis of the information obtained about the status of the owner. However, MACLEA feels that this is inconsistent with the spirit of the SJC's opinion and would also adversely affect the relationship between campus law enforcement and municipal agencies so vital to public safety. It is largely unnecessary, in their efforts to ensure campus safety, for SSPOs to troll public ways for unlicensed motorists by randomly running plates of the vehicles that are operating properly. That is why random plate queries should be limited to those vehicles actually operating on the grounds of the institution.

⁷ G.L. c. 90C, § 2.

⁸ The obvious implication of *Comm. v. Smeaton*, 465 Mass. 752 (2013) is that private campus agencies will issue citations given that they are empowered to enforce motor vehicle crimes on public ways. Also see *Comm. v. Baez*, 42 Mass. App. Ct. 565 (1997) (deputy sheriffs have authority to issue citations for motor vehicle offenses, even though registry does not issue citation books to sheriffs; Appeals Court said the source of the citation was not an issue it would consider because the citation itself was properly issued).

⁹ G.L. c. 90C, § 3(B) (officer may issue citation based on information from a secondary source, including another officer or citizen). Interestingly, in the *Smeaton* case, the Northampton officer who made the arrest also issued a citation to the defendant for reckless driving *and* a marked lanes violation based solely on SSPO Wagner's observations.

¹⁰ In *Comm. v. Kenney*, 55 Mass. App. Ct. 514 (2002), the officer's failure to issue a citation in a timely fashion was excused because the purposes of the law, G.L. c. 90C, § 2, had been fulfilled. First, citation service is intended to prevent the "fixing" of traffic tickets. Second, it ensures that the motorist is aware of the nature of the offense.

¹¹ There is even support for the proposition that a citation is unnecessary in a case where a private SSPO makes an arrest or applies for a complaint. Since the citation procedure in G.L. Chapter 90C is limited to municipal officers, state troopers, MBTA officers, certain designated special officers, and campus officers from state institutions, private SSPOs are exempt from its coverage. Since citizens may initiate the complaint process for motor vehicle offenses without complying with the citation process, it stands to reason that private SSPOs may do the same. See G.L. c. 90C, §§ 1 (definition of "police officer" for citation process does not include private SSPOs); 2 (citation process only mandated for "police officers" – as defined in 90C, § 1); and 4 (citizens may apply for a criminal complaint concerning any motor vehicle crime). *Comm. v. Steadward*, 43 Mass. App. Ct. 271 (1997).

¹² As the *Smeaton* decision pointed out, § 63 does not require that an institution's "use" of particular "lands or structures" (including roads) be exclusive. Rather, the term "use" covers any public way that intersects a campus or provides access to areas on campus. According to the SJC: "Section 63 does not . . . confine the power of arrest to any geographic or spatial area, so long as the criminal offense was committed on land or structures owned, used or occupied by the college."

¹³ G.L. c. 75, § 32A pertains to campus officers within the UMass system. It states that university police officers may enforce criminal, parking and vehicle violations "throughout university property." Community college and state university officers are appointed by the board of trustees pursuant to G.L. c. 15A, § 22 and given criminal, parking and vehicle enforcement power "throughout the property of the institution." This language is repeated in G.L. c. 73, § 18.

These appointment statutes do not have the same language as G.L. c. 22C, § 63 – which grants authority on property "owned, used, or occupied" by the university or college (emphasis added). The word "used" was largely the basis for the *Smeaton* decision. Therefore, if state campus agencies wish to engage in criminal and traffic enforcement on public ways that connect and adjoin campus facilities, ideally, they should seek dual appointment under their authorizing statute (Chapter 75 or 15A) and the overall police power statute of G.L. c. 22C, § 63.

¹⁴ *Comm. v. Smeaton*, 465 Mass. 752 (2013) also preserved the rule first announced in *Young v. Boston University* in 2005. The environment includes “those areas where students, faculty, and visitors might be exposed to danger from the type of conduct exhibited [by the suspect].” The erratic driving by Steven Smeaton was just the type of conduct that posed a threat to the safety of those who might frequent the campus. *Young v. Boston University*, 64 Mass. App. Ct. 586 (2005) (alumni of college violated a restraining order, obtained by a student, on campus; police arrested him near campus over an hour later). Also see *Comm. v. Mottola*, 10 Mass. App. Ct. 775 (1980) (MBTA transit police could engage in an investigation and arrest off their property in Boston, because it related to the protection of an MBTA passenger). Compare with *Comm. v. Baez*, 42 Mass. App. Ct. 565, 570 (1997) (driving without a valid license not considered a breach of peace; so leaving campus to pursue that situation would not be justified).