



The Aberdeen Police Department Policies & Procedures Manual Chapter Contents



Chapter 28 Criminal Procedures

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Chapter 28 Criminal Procedures
Section 01 Arrest With and Without a Warrant

GO 15-045, 03/16/2015
Supersedes GO 14-067

A. Policy

1. When arrests are made, officers should treat prisoners with decency and humanity, and should use caution regarding his/her own safety and the security of the prisoner.

B. Procedure, Arrest With or Without a Warrant

1. Inform the arrestee
 - a. The arresting officer will inform the arrestee of the reason(s) for the arrest.
 - b. The arresting officer shall advise the arrestee of the Miranda Warning.
 - c. The arresting officer shall inform arrested foreign nations they have the right to have their consulate contacted.
2. Physical Arrest
 - a. The arresting officer will secure and transport the arrestee to the Police Department as soon as possible after the arrest.
3. Preparing Reports (1.2.5a)
 - a. The arresting officer shall complete the Prisoner's Arrest Record (Docket Card) at Police Temporary Detention (Booking) area.
 - b. Officers shall document in the incident report, or supplement report, appropriately, the elements of the offense and the facts supporting the arrest.
 - c. Statement of Charges, Arrested without a Warrant
 - 1) The arresting officer shall prepare or shall supervise preparation of a statement of charges against the arrestee.
4. Fingerprinting (1.2.5b)
 - a. Fingerprinting arrestees is suspended until the Department secures appropriate fingerprinting equipment.
 - b. Arrestees transferred to the Harford County Sheriff's Office Detention Facility will be fingerprinted at that destination.
5. Photographing (1.2.5c)
 - a. Photographing arrestees is suspended until the Department secures appropriate fingerprinting equipment.
 - b. Arrestees transferred to the Harford County Sheriff's Office Detention Facility will be photographed at that destination.

C. Procedure, Arrest with a Warrant

1. Officers shall serve the warrant by
 - a. Arresting the person,
 - b. Bring the arrestee into APD Temporary Detention (Booking), and
 - c. Place the arrestee in a cell.



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2. Officers shall prepare reports and arrange for transport of the prisoner, appropriately:
 - a. Harford County Warrant
 - 1) Complete the Docket (Arrest Record) (1.2.5a)
 - 2) Notify the PCO to have the Harford County Sheriff's Office transport the prisoner to the Harford County Detention Center.
 - b. Aberdeen Warrant
 - 1) Complete the Docket (Arrest Record), (1.2.5a)
 - 2) Complete an Incident Report Supplement to the original case, and (1.2.5a)
 - 3) Transport the prisoner to the Harford County Detention Center
 - c. Misdemeanor Bench Warrant
 - 1) Complete the Docket (Arrest Record), (1.2.5a)
 - 2) Complete an Incident Report, and (1.2.5a)
 - 3) Transport the prisoner to the Harford County Detention Center
3. Outside Agency Warrant
 - a. Complete the Docket (Arrest Record), (1.2.5a)
 - b. Complete an Incident Report Supplement to the original case, and (1.2.5a)
 - c. Notify the PCO to have the outside agency transport the prisoner to the intended jurisdiction.

D. Custody

1. Every person arrested by an officer is in custody of the Department and must remain in custody until:
 - a. All civil, juvenile, or criminal citations have been signed;
 - b. Transferred to the custody of the Harford County Detention Center;
 - c. Released upon authority of the Harford County State's Attorney;
 - d. Released to another jurisdiction holding a valid warrant for the subject;
 - e. Released for emergency life threatening medical treatment, with the exception of felony cases involving crimes against persons (unless authorized by the State's Attorney); or
 - f. Released, if juvenile, under authority of Juvenile Services or transferred to a juvenile facility.

E. Arrest Without a Warrant

1. Officers shall ensure that they have probable cause to make an warrantless arrest according to *Maryland Criminal Procedure* (see APPENDIX at the end of this policy).
2. A police officer may arrest without a warrant any person who commits, or attempts to commit, any felony or misdemeanor in the presence of or within the view of that officer.
3. A police officer may, when the officer has probable cause to believe that a felony or misdemeanor is being committed in his presence or within his view, arrest without a warrant any person whom the officer may reasonably believe to have committed such offense.



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4. A police officer may arrest a person without a warrant if the officer has probable cause to believe that a felony has been committed or attempted and that such person has committed or attempted to commit a felony whether or not in his presence or view.
5. A police officer may arrest a person without a warrant if the officer has probable cause to believe that:
 - a. The person battered the person's spouse, or other individual with whom the person resides; and,
 - b. There is evidence of physical injury; and,
 - c. Unless the person is immediately arrested, the person may not be apprehended; or,
 - d. The person may cause injury to the person or damage to the property of one or more other persons; or,
 - e. The person may tamper with, dispose of, or destroy evidence; and,
 - f. A report to the police was made within 48 hours of the alleged incident.

F. Entering Premises to Make and Arrest

1. The forcing of an outer door is generally so violent and dangerous a proceeding that it must never be resorted to except in extreme cases and when an immediate arrest is necessary.
 - a. Except for fresh pursuit situations, doors will not be forced in arrest situations where the individual to be arrested is only suspected to be at a location which is not the property of the arrestee.
 - b. Under these circumstances, a search warrant would be necessary to conduct a search for the individual to be arrested.
2. Even when a person is subject to arrest, he still has the right not to have the door to his home unnecessarily broken.
 - a. He also has the right not to have strangers come into his house without advance warning.
 - b. Further, unannounced entry into the house may result in unnecessary injury to the officer by an occupant who believes he is exercising his right to protect his house from an unlawful entry.
3. Except in special circumstances, when making an arrest of a person in a building, the officer should knock on the door, identify himself as an officer there to make an arrest and demand that the person inside open the door.
 - a. Only if there is no answer, or a refusal to open the door after a reasonable lapse of time, should the officer enter without the door being opened for him.
 - b. Even when he does enter on his own, the officer should try to do as little damage as possible.
4. Exceptions to the above are where the arresting officer has good reason to believe that making the announcement might help the suspect to escape, constitute a source of danger to other persons (such as hostages) inside the house or to the arresting officer himself, or help the suspect destroy evidence.



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- a. When he does enter without announcement and demand, it is imperative that he carefully record in detail in his report the surrounding circumstances and the reasons for this kind of entry so that he will be prepared to testify in court about it.
5. Failure to follow the general rule requiring announcement before entry, may turn an otherwise valid arrest into an invalid one and result in the exclusion of evidence as well as the civil or criminal liability against the arresting officer.

G. Search Incident to an Arrest

1. Officers shall, absent exigent circumstances, perform a thorough and systematic search of a person placed under arrest at the earliest possible time.
 - a. Officers shall make every possible attempt to effect this search prior to transporting an arrested person. The following property shall be taken from the arrestee:
 - 1) Property carried unlawfully
 - 2) Property lawfully carried, but dangerous to life or would facilitate escape
 - 3) Evidence
2. The arresting officers, prior to transport, detention, interview or interrogation, shall conduct a search of the person regardless of a previous search.
3. When a prisoner is brought into the holding/ processing area, the patrol supervisor, if available, will insure that the prisoner is searched in addition to the search at the time of arrest.
4. Search of Females
 - a. The arresting officer will exercise the same diligence in searching female prisoners for concealed weapons or other dangerous instrumentalities as exercised with male prisoners.
 - b. The arresting officer will confine the scope of the search to be consistent with the crime, the circumstances surrounding the arrest, and the character of the arrestee.
 - c. After the female is in custody and properly restrained, all subsequent searches will be conducted and witnessed by female police officers.



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APPENDIX

Examples of Warrantless Arrest Laws

Maryland Criminal Procedure

TITLE 2 - LAW ENFORCEMENT PROCEDURES; ARREST PROCESS

Subtitle 2 - Warrantless Arrests

- [Section 2-202 - Warrantless arrests - In general.](#)
- [Section 2-203 - Warrantless arrests - Commission of specified crimes.](#)
- [Section 2-204 - Warrantless arrests - For domestic abuse.](#)
- [Section 2-204.1 - Warrantless arrests -For violation of protective order.](#)
- [Section 2-205 - Warrantless arrests - For stalking.](#)
- [Section 2-206 - Warrantless arrests during state of emergency.](#)
- [Section 2-210 - Trespassing on posted property used for defense-related activity.](#)

Maryland Transportation

- [Section 26-202 – Violation of Maryland Vehicle Law](#)



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Chapter 28 Criminal Procedures
Section 02 Diplomatic Immunity and Consular Notification

GO 20-004, 02/06/2020
Supersedes GO 18-086

A. Policy

1. This Department shall comply with all United States treaty obligations on consular notification and access.
2. Department personnel shall always treat foreign diplomatic and consular personnel with respect and with due regard for the privileges and immunities to which they are entitled under international law.

B. Diplomatic Immunity Definitions (1.1.4)

1. Full Criminal Immunity
 - a. Diplomatic agents, administrative and technical staff and their families.
 - b. The person's residence, vehicles, papers, and correspondence cannot be searched.
 - c. The person cannot be detained or arrested and is not required to give evidence as a witness.
2. Limited Criminal Immunity
 - a. Service staff members.
 - b. The person can be detained, arrested, and prosecuted for criminal acts.
 - c. The person can be required to give evidence as witness and, his/her person and effects can be searched.

C. Motor Vehicle Law Violations Required Notifications (1.1.4)

1. The officer shall notify the supervisor who shall telephone the U.S. State Department to verify the driver's status and immunity when foreign diplomats are stopped for probable cause violations of motor vehicle laws.
 - a. Telephone numbers of the U.S. State Department:
 - 1) Monday through Friday, 8:00 a.m. to 5:00 p.m. 202-895-3532
 - 2) All other times of day or night: 202-647-7277
2. If the supervisor is not able to contact the U.S. State Department:
 - a. The supervisor shall inform the officer.
 - b. The supervisor shall, as soon as practicable, contact the U.S. State Department, even if the driver has already been released.
3. The officer shall not detain the driver any longer than is necessary to record the appropriate information.
4. The officer shall forward to the Maryland Motor Vehicle Administration, the following within five days after the date of a stop:
 - a. A Vehicle Accident Report if the driver was involved in a vehicle accident.
 - b. A copy of the citation or other charging document if issued to the driver.
 - c. A copy of APD Form 1, if a citation or other charging document was not issued.



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d. Mail to:

Motor Vehicle Administration
Administrative Adjudication, 212
6601 Ritchie Highway, NE
Glen Burnie, MD 21062

5. If a citation or other charging document is not issued, the officer shall record in the incident report:
- a. All relevant information from any driver's license or identification card, including a driver's license or identification card issued by the U.S. State Department; and
 - b. The reason for the stop.

D. Traffic Stops

1. Force must not be used except when necessary to prevent injury to the diplomat or others and then only the absolute minimum should be applied.
2. Moving violation
 - a. When a driver with proper and valid identification indicating diplomatic immunity is stopped for any moving traffic violation, the officer may issue an appropriate traffic citation or warning notice.
 - 1) The arrest/detention of members of the Diplomatic Corps for any violation of the Maryland Motor Vehicle Law is not authorized.
 - b. The diplomat does not have to sign the citation and cannot be arrested for refusal to sign or accept the citation.
 - 1) If diplomat refuses to sign, the officer will write "Refused to Sign" on the citation.
3. Driving While Intoxicated
 - a. The officer shall not allow individuals with diplomatic immunity stopped for DWI to operate a motor vehicle.
 - 1) The officer shall help with parking the vehicle or securing another driver.
 - 2) If the vehicle is parked, the location shall be recorded in CAD.
 - b. An officer may issue a traffic citation to the person for DWI and any other related traffic charges.
 - c. The officer shall not physically arrest the person.
 - d. If the diplomat refuses assistance or a claim is made that the officer's requested action would restrict the effective exercise of diplomatic functions, the officer shall inform the diplomat that the diplomat is free to go, but the vehicle may not be moved.
 - 1) The officer shall have the diplomat's embassy or legation contacted immediately for advice or assistance in obtaining a driver and removing the vehicle.
 - e. If the driver is entitled to diplomatic immunity, the driver should not be restrained except in extreme cases.
 - 1) The officer should offer sobriety tests, but a diplomat may not be compelled to take any tests.



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4. Towing

- a. The officer shall comply with the Department towing policy.
- b. The officer may not search the diplomat's vehicle.

E. Exemption from Arrest (1.2.6)

1. Members of the military, while going to, remaining at, or returning from any place at which the person be required to attend for military duty.
2. United States senators and representatives during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house.

F. Consular Notification and Access for Arrested Foreign Nationals (1.1.4)

1. The officer should determine an arrested foreign national's country by their passport or other travel documents.
2. The officer shall document on the Prisoner Arrest Record (Docket):
 - a. Place of Birth
 - 1) or Country of Origin if other than the United States;
 - b. US Citizen
 - 1) Check the correct box: Yes or No;
 - 2) If No, write country of Citizenship; and
 - c. Mandatory Notification
 - 1) Have the arrestee sign the appropriate statement; and
 - 2) Check the correct box: Yes or No.

G. Foreign Nationals' Rights about Consular Notification

1. The officer shall inform the foreign national, *in writing*, about his/her country's notification requirement, mandatory or non-mandatory, using the following form:
 - a. Form 205 – Consular Notification - ENGLISH;
 - b. Form 206 – Consular Notification - ROMANIAN; or
 - c. Form 211 – Consular Notification - SPANISH;
 - d. Form in other languages
 - 1) Notification Statements in other languages are on the APD Policies (P:) drive.
 - 2) Select the correct form and print out the page for the foreign national to complete.
2. The officer shall have the foreign national complete and sign:
 - a. The top half of the form if notification is non-mandatory; or
 - b. The bottom half of the form if notification is mandatory.
 - 1) If the foreign national refuses to sign the form, the officer shall write on the form, “(Name of foreign national) refused to sign,” and shall date the form.
3. The officer shall keep the signed form with the Incident Report.



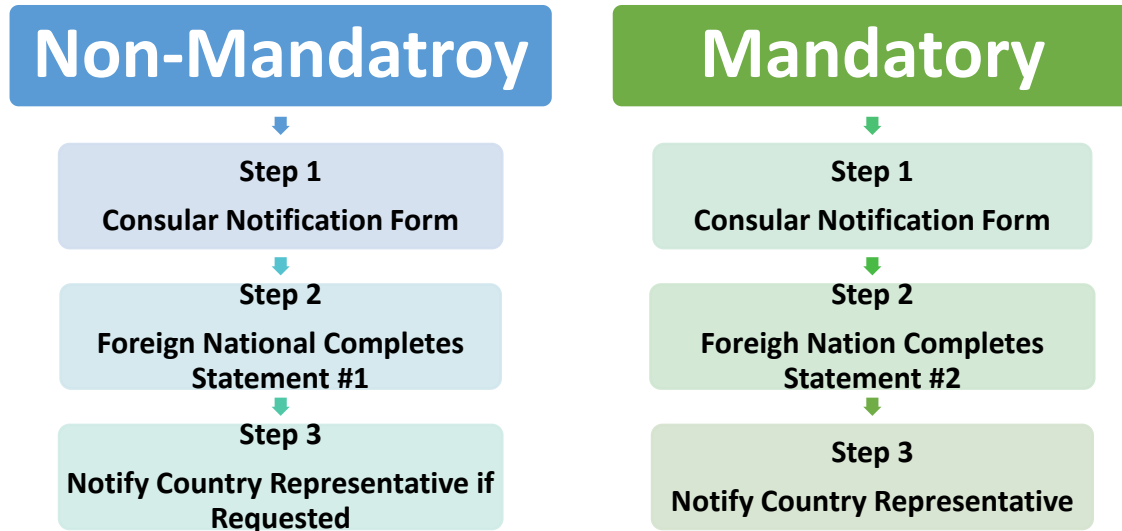
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4. The officer shall record in the Incident Report:
 - a. Whether the country of origin is mandatory or non-mandatory;
 - b. That consular notification rights have been given in writing; and
 - c. Whether the officer notified the foreign nation's country representative.
5. Consular Notification Process



H. Non-Mandatory Consular Notification

1. The officer shall offer to notify the foreign national's country representative, even if notification is not mandatory.
2. The officer shall notify the country's representative when the foreign national requests notification.

I. Mandatory Consular Notification

1. The foreign national has no choice about consular notification to a mandatory notification country.
2. If the foreign national's country is one of the following, then consular notification is mandatory.

a. Mandatory Consular Notification Countries:

- | | | |
|-------------------------------|-----------------|-------------------------------------|
| 1) Antigua and Barbuda; | 20) Hong Kong; | 39) Saint Vincent/ Grenadines; |
| 2) Armenia; | 21) Hungary; | 40) Seychelles; |
| 3) Azerbaijan; | 22) Jamaica; | 41) Sierra Leone; |
| 4) The Bahamas; | 23) Kazakhstan; | 42) Singapore; |
| 5) Belarus; | 24) Kiribati; | 43) Slovakia; |
| 6) Belize; | 25) Kuwait; | 44) Tajikistan; |
| 7) Brunei; | 26) Kyrgyzstan; | 45) Tanzania; |
| 8) Bulgaria; | 27) Malaysia; | 46) Tonga; |
| 9) Peoples Republic of China; | 28) Malta; | 47) Trinidad and Tobago; |
| 10) Costa Rica; | 29) Mauritius; | 48) Turkmenistan; (cont. next page) |



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11) Cyprus;			
12) Czech Republic;			
13) Dominica;			
14) Fiji;			
15) The Gambia;			
16) Georgia;			
17) Ghana;			
18) Grenada;			
19) Guyana;			
30) Moldova;			
31) Mongolia;			
32) Nigeria;			
33) Philippines;			
34) Poland;			
35) Romania;			
36) Russia;			
37) Saint Kitts and Nevis;			
38) Saint Lucia;			
49) Tuvalu;			
50) Ukraine;			
51) United Kingdom;			
52) U.S.S.R. (Passports may still be in use)			
53) Uzbekistan;			
54) Zambia; and			
55) Zimbabwe.			
3. The officer shall notify the country representative of the arrest or detention as soon as possible, if the country of origin is a mandatory notification country.			
4. Information on the closest Consular Office may be obtained 24 hours a day by telephoning the Department of State Operations Center at 202-647-1512.			
a. The latest telephone/fax numbers can also be located on the Internet at www.state.gov , then Index the letter "C" and Consular Notification.			



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Chapter 28 Criminal Procedures
Section 03 Repeat Offender Program

GO 19-044, 19/13/2019
Supersedes GO 15-047

A. Policy

1. The Aberdeen Police Department shall administer a Department Repeat Offender Program (ROP) to identify and target, for proactive enforcement, repeat offenders in the Aberdeen Community.

B. Program Administration

1. The Repeat Offender Program Coordinator, appointed by the Chief of Police, shall administer the program and monitor Department documentation of ROP activities.

C. Definitions

1. Repeat Offender – A subject who:
 - a. Has been previously convicted of an offense and has repeated the same offense or an offense of a similar nature; and
 - b. Is designated as needing extra attention or enforcement action.
2. Tier One Offender – Total Score 60-175 points, considered violent or dangerous.
3. Tier Two Offender – Total Score 30-60 points, may not be considered violent or dangerous.

D. Identifying ROP Offenders

1. Officers and investigators:
 - a. Are encouraged to identify new offenders, through FBR or other investigative efforts;
 - b. Shall use the ROP Scoring sheet to determine whether an offender meets the criteria; and
 - c. Shall notify the Coordinator when a new offender can be added to the ROP List.

E. Designating ROP Offenders (42.1.5a)

1. Scoring System to determine whether to designate subjects as repeat offenders

A.	Criminal History Factors	Points
1	Violent crime less than five years prior	20
2	Violent crime more than five years prior	10
3	Unlawful firearm possession	15
4	Weapons possession other than firearm	10
5	Felony CDS violations	10
6	Felony property crimes	5
7	Pending criminal charges	5
8	Currently under state parole and probation	10
B.	Gang Member (select one)	
1	Confirmed active gang member	20
2	Confirmed active gang associate	10
3	Known past gang member	5
4	Known past gang associate	5
C.	Recent Contacts with Police (FIR or Report)	
1	Recent contact with police relating to a violent crime	20
2	Recent contact with police related to non-violent criminal activity	5
D.	Suspected Criminal Activity	
1	Current tips of CDS manufacturing/distribution	5
2	Current tips concerning illegal firearm sale or possession	10
3	Current tips detailing a danger to the community	10



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F. Procedures

1. The ROP Coordinator and Patrol Officers shall develop a standard procedure for performing proactive ROP enforcement.
2. ROP Coordinator shall:
 - a. Have the ROP List available to officers;
 - b. Update the list whenever an offender is designated or removed from the list; and
 - c. Submit updates to the Chief of Police through the chain of command.
3. Officers shall be familiar with the names on the ROP List.
4. Recordkeeping (42.1.5b)
 - a. Officers shall record that the arrestee is an ROP offender on:
 - 1) Incident Reports;
 - 2) Arrest Reports;
 - 3) Docket Cards;
 - 4) 24-Hour Reports;
 - 5) Confidential Memorandum Reports;
 - 6) CAD narratives;
 - 7) Probable Cause statements; and
 - 8) Any other Department forms and reports associated with the incident.
5. Prosecuting Attorney Notification (42.1.5c)
 - a. The State's Attorney's Office will receive and process the charging documents from the Harford County Detention Center.
 - b. The Officer shall notify the State's Attorney's Office about which charging documents are those of a Repeat Tier 1 or Tier 2 Offender.



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Chapter 28 Criminal Procedures
Section 04 Interviews and Interrogations

GO 18-062, 07/17/2018
Supersedes GO 15-031

A. Policy

1. The Miranda warnings must be given when interrogation/questioning initiated by the police in a custodial, coercive, police-dominated atmosphere, where information, statements and confessions are sought and response would tend to incriminate the individual being interviewed or interrogated.
2. Officers shall adhere to all constitutional protections and provisions, including access to counsel, when they conduct interviews and interrogations. (1.2.3)
3. Officers shall establish safe conditions for the various situations that that may encounter when conducting interviews or interrogations.
4. Officers shall properly carry out all phases of an investigation to ensure a successful conclusion.

B. Field Interview Report

1. The officer may use the Field Interview Report (FIR) to record observations that do not by themselves warrant further action, but may prove of interest in present or future investigations.
2. The officer will use the FIR to record unusual or questionable occurrences observed as a result of routine patrol that are potentially of interest, but do not warrant arrest or completion of an Incident Report.
 - a. When an individual and/or vehicle's location, actions, or time of day is sufficiently out of the ordinary to arouse an officer's concern, the observation portion of the form will be completed.
 - b. FIR's may be completed as a result of passive observation or incidental to a motor vehicle stop.
 - 1) In these instances, identification information is not required to be obtained in the course of completing the traffic stop.
3. Officers should complete Field Interview Reports with discretion and little or no disruption to the observed persons.
4. Before an individual is stopped and interviewed, the officer should be able to articulate specific facts that establish a reasonable suspicion that a crime
 - a. Is being committed;
 - b. Has been committed; or
 - c. Is about to be committed.
5. Where reasonable suspicion is not present or when an individual lawfully declines to furnish identification, the officer will complete the Field Interview Report in as much detail as possible.
6. Officers should record on the FIR passive observations of individuals, vehicles or events that do not require nor justify interaction with the observed.
7. Officers will enter all information in the FIR Section in FBR.



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C. Confessions

1. For a confession to be admissible at trial, it must have been given voluntarily.
2. The Miranda warnings should be applied when a confession is solicited by the police.
3. Additionally, the confession must be given absent any circumstances that may demonstrate an involuntary situation, or the confession, as well as evidence discovered as a result of the confession, would be inadmissible.

D. Miranda Warning (1.2.3b)

1. Officers shall administer Miranda rights when officers initiate custodial questioning and/or interrogation.
2. Administering a written Miranda Warning (1.2.3b)
 - a. The officer will complete the Explanation of Miranda Warnings form, filling in the
 - 1) Date;
 - 2) Place;
 - 3) Time;
 - 4) Incident; and
 - 5) Name of Officer.
 - b. The officer will read each line (#1-6) individually and have the detainee initial each line, indicating the detainee understood the rights.
 - c. The officer will have the detainee sign the form at the bottom where indicated.
 - d. The witness or witnesses will sign the form, completing the process.
3. Administering a verbal Miranda Warning (1.2.3b)
 - a. The detaining/arresting officer shall request another officer to respond to the scene.
 - b. The detaining/arresting officer shall administer the verbal Miranda Warning—with another officer present, unless extenuating circumstances arise—to the detainees.
4. An individual subject to interrogation who invokes any of his Miranda rights will not be questioned until he has consulted with an attorney and agrees to be questioned. (1.2.3c)
 - a. Additionally, an individual who had waived his rights initially and during the interrogation wishes not to be questioned any further, will not be interrogated until he has consulted with an attorney and subsequently consents to additional questioning.
 - b. The individual will be re-informed of his rights prior to any subsequent questioning; especially, when there is a significant break in the interrogation, change in persons present, change in location, etc.
5. After these warnings have been given and an opportunity to exercise these rights afforded, only the individual interrogated (including juveniles) may waive these rights.
 - a. In order for this waiver to be effective, it must be done voluntarily, knowingly and intelligently.
 - b. Any evidence that an individual was threatened tricked or cajoled into a waiver, in whole or in part, may constitute an involuntary waiver.



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6. The parents of a juvenile subject to interrogation cannot waive or invoke these rights for the juvenile.
7. Only if a juvenile makes the request to see his parents will every attempt be made to permit this visit as soon as it is feasible, e.g. when the parents arrive at the Department.
8. Parents or guardians will not be permitted to interfere with the investigative procedures.

E. Interrogation in Investigation (1.2.3a)

1. The interrogator shall document and have interrogations, statements and confessions, witnessed, and signed by the suspect—if the suspect is willing—and the interrogator.
 - a. The interrogator shall have each page of the document initialed by the suspect (if the suspect is willing), and the interrogator.
 - b. The document should be in the suspect's handwriting.
 - 1) A dictated and transcribed version is acceptable with the suspect having had the opportunity to read and sign the transcription.
 - c. The documentation should include a description of the suspect's mental, physical and emotional state at the time of the interrogation.
2. Officers should conduct interrogations in a professional manner.
 - a. Every attempt should be made to neutralize the atmosphere of the setting to reduce the chance of being accused of threatening, coercing, frightening, etc., by the suspect under interrogation.
3. Interrogations of individuals of the opposite sex should be conducted with at least one additional police employee present, preferably of the same sex as that of the person being interrogated.

F. Interview/Interrogation Rooms

1. The Department's designated rooms for interviews and interrogations are located in the headquarters building in the Criminal Investigations Division area. (42.22.8a)
2. A supervisor or detective shall ensure the interview/interrogation rooms are inspected before each use, to remove any objects or debris that would impede the interview or interrogation process. (42.22.8b)

G. Using the Interview/Interrogation Rooms for Interviews that become Interrogations

1. Officers shall secure their weapons in a gun locker before entering the interview/interrogation room. (42.22.8a)
2. Security and Safety measures include but are not limited to: (42.22.8b)
 - a. The interviewing officer will have another officer in the area or in the interview/interrogation room during every interview of a potential suspect;
 - b. The interviewing officer will have a radio available in case of emergency; and
 - c. The interviewing officer may turn on the camera and record the interview or interrogation; and/or
 - d. The interviewing officer may secure the detainee to a fixed object designated for this specific purpose.



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3. Under normal circumstances, no more than two officers will be present in the interview/interrogation room with the detainee. (42.22.8c)
 - a. Only officers associated with the investigation may be in interview/interrogation room with the detainee.
 - b. More personnel may be allowed under exceptional circumstances such as a physical confrontation.
4. Panic or Duress (42.22.8d)
 - a. Officers shall:
 - 1) Notify a second officer in the area; or
 - 2) Use Signal 13 on their radios in case of distress or emergency in the Interview/interrogation room.
5. The interview/interrogation room shall contain, at a minimum: (42.22.8e)
 - a. Table; and
 - b. Chairs.
6. Officers shall provide water or comfort breaks to the suspect. (42.22.8f)
 - a. Officers shall escort the suspect to the restroom.



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Chapter 28 Criminal Procedures
Section 05 Search and Seizure

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Supersedes GO 14/058

A. Introduction

1. The Fourth Amendment applies to federal law enforcement matters, but its constitutional guarantees have been applied to all states through the "due process" clause of the Fourteenth Amendment.
2. Although knowledge of the constitutional provisions relating to search and seizure will not solve the everyday practical problems an officer must face when he conducts a search or makes a seizure, it is the starting point with which he can determine the propriety of his intended acts. An officer must always consider the reasonableness of the search, the legal justification for the search, the probable cause to support the search, and, in seeking or executing a warrant, the particularity with which the persons, places, and items are described. If he does this with care, he can help ensure that his actions will be lawful and that the validity of the search and seizure will stand in a court of law.
3. Under this exclusionary rule, a search cannot be conducted in violation of the Fourth Amendment. That is, evidence obtained or confiscated during an unreasonable search and seizure cannot be used in any court (state or federal) as evidence against the person from whom it was improperly obtained.
4. All property or evidence seized or taken into custody by police employees will be handled and processed in accordance with Chapter 30, "Handling and Disposition of Property."

B. Probable Cause

1. The true test of any search is the demonstration that probable cause exists to justify the search. The basis for determining probable cause to search is essentially the same as that of probable cause for arrest. Probable cause to search is demonstrated by the existence of facts and surrounding circumstances which are sufficient to justify a man of reasonable caution to believe that an offense has been committed and that the particular property to be seized is relative to the offense and is located at the particular place. "Probable cause means a fair probability that contraband or evidence of a crime will be found in a particular place." It must be examined in light of the "totality of circumstances." Reduced to its essentials, probable cause means that the officer must have reasonable grounds to believe, that rise above mere suspicion, that things related to an offense are on the premises to be searched.
2. Searches may be conducted pursuant to the authority of a search warrant, upon receipt of proper consent, or in conjunction with the various exceptions to the warrant requirements, e.g., incident to arrest, vehicle searches, stop and frisk, abandoned property, etc. The Supreme Court has ruled that, barring these specific exceptions, all searches without a warrant are unreasonable. Each exception to the warrant requirement imposes its own unique set of guidelines which must be followed.

C. Search Warrants

1. Search warrants will be issued only by judges of the Circuit Court and District Court of the State of Maryland. Once issued, a search warrant will:
 - a. be directed to a law enforcement officer for service.
 - b. authorize the search of the individual, item, vehicle, building, thing, etc. specifically described in the warrant.



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- c. authorize the seizure of the item(s) described in the warrant as well as any other property found liable to seizure under the criminal laws of this state.
 - d. be valid for a period of fifteen (15) days from the date issued.
 - e. be returned with a property inventory within ten (10) days of service to the issuing judge.
2. Before an officer of the Department applies to the court for a search warrant, the completed application/affidavit will be presented to his supervisor and/or the Operations Captain or his designee for review.
3. The Application/affidavit will be reviewed for substance and content to substantiate the issuance of the search warrant.
4. When applying to a judge for the issuance of a search warrant, the applicant must present detailed information intent on establishing probable cause to believe the item(s) sought are in the possession of an individual or being held at a specific location. This document is known as the affidavit and will become part of the warrant. The affidavit contains a detailed synopsis of the facts at hand which establishes:
 - a. the commission of a specific offense.
 - b. that certain specifically identified contraband/evidence/property directly related to the offense is being sought.
 - c. that the contraband, evidence property, sought is in the possession of an individual and the individual or the item(s) sought are contained in a specific container or at a specific location
5. Facts which lead the officer to believe that seize-able goods are on certain premises can come from two sources, first, personal knowledge - what the officer has observed and second, what others have observed and related to the officer. Where the facts are within the officer's personal knowledge, he need only set forth in detail in the probable cause sections of the warrant the following:
 - a. The dates and times he observed the facts.
 - b. The place where he observed the facts.
 - c. Exactly what he observed (detail is most important here), and
 - d. A brief synopsis of the officer's experience and training.
6. When someone else tells the officer the facts, it is necessary that he include in the affidavit the facts which caused the other person to believe that seize-able goods are on the particular premises and, in addition, should that other person be a confidential informant, why the officer believed what the other person told him. Since there are these two distinct types of information required when the affidavit is to be based on an informant's observations, such an affidavit will necessarily be more lengthy than one based solely on the officer's personal knowledge.- The probable cause section should contain the following information:
 - a. The date the officer was told the facts.
 - b. The name and address of the person who told the officer the facts, except in the case of a confidential informant.



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- c. The date the other person observed the facts.
 - d. That the other person personally observed the facts.
 - e. The place where the other person observed the facts.
 - f. Exactly what facts (in detail) the other person observed.
 - g. An explanation of why the officer believes that what the other person told him is true.
 - h. A brief synopsis of the officer's experience and training.
7. Officers are under no obligation to disclose the identities of their confidential informants in a search warrant affidavit. However, when a confidential informant's identity is not disclosed, it is especially important that the officer explain fully why he believes that the facts related to him by the informant are true. To substantiate the informant's reliability, the following should appear in the probable cause section:
- a. The informant's past record for accuracy.
 - b. Whether valid arrests and convictions have been based on that information.
 - c. What facts the officer has personally observed which corroborate the information related by the informant.
 - d. If appropriate, a statement by the informant indicating that he has committed or has participated in the commission of the crimes indicated.
- Note: Give as much detail as possible without revealing the informant's identity. Where it is important to protect the identity of an informant, it is not necessary to specify the exact date upon which the informant received his information or performed some act which assisted in establishing probable cause for the issuance of a warrant. Such phrases as "...during the week of..." may be used.
8. It cannot be overemphasized that the officer should include in the affidavit all information having any bearing on his conclusions.
- a. Be detailed; nothing should be left to the imagination of the judge.
 - b. If space on the form is inadequate, add additional sheets.
 - c. Each additional sheet should be numbered and signed.
 - d. Time spent in attempting to list all of the relevant information is always time well spent. It does not only insure the validity of the warrant, but it also gives the officer an opportunity to decide if he has amassed sufficient information to justify issuance of the warrant. Very often the State's case will be only as strong as the affidavit. On finding of good cause, a judge may order an affidavit presented in support of a search and seizure warrant to be sealed for not more than thirty days in order to maintain confidentiality in an ongoing criminal investigation for violation of certain controlled dangerous substance laws. After the affidavit is unsealed, it must be delivered within fifteen days to the person from whom the property was taken or the person apparently in charge of the premises from which the property was taken.
9. Once issued, the search warrant will be executed by any authorized police employee to whom it was issued unless the warrant specifies it is to be served by the applicant or other individual. The officer executing the warrant has the right to take necessary and appropriate



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actions to protect himself and others; ensure that the item(s) sought will not be damaged, destroyed, removed, etc.; the search will not be inhibited; safeguard the scene; collect and remove property; make arrests; etc. The police employee executing the warrant shall use prudent judgment in developing the search procedures commensurate with the individual circumstances.

10. The use of good judgment in executing a warrant is as important as that used in obtaining one. An otherwise valid search can become unlawful if the warrant is not properly executed. The following procedures may be utilized when executing the warrant:
 - a. Serve the warrant within fifteen (15) days of its issuance.
 - b. The breaking of doors in execution of a search warrant is commensurate with those procedures established for the breaking of a door in execution of an arrest, as provided in Section III of this chapter.
 - c. The search warrant will be read to the person in charge of the premises being searched, if such a person is present at the time of service.
 - d. The search will include the place specified in the warrant, including all places reasonably and logically a part of that building, and everything therein where the lawfully sought articles might be concealed.
 - e. Only the time necessary under the circumstances may be used to conduct the search.
 - f. The officer may seize only those items particularly described in the warrant and any other instrumentalities, fruits or contraband while properly searching for the things particularly described
 - g. A search warrant alone does not constitute authority for an arrest, but an arrest may be made on probable cause developed during execution of the search warrant.
 - h. A search warrant for a residence or other premises does not permit a search of all the persons present during the search.
 - i. If probable cause is developed during the legal search to believe persons on the premises possess items which reasonably could be objects of the search, they may be detained until the proper search warrant is obtained.
 - j. Regardless of the circumstances of the search, reasonable suspicion may justify the frisk of all persons present for offensive weapons.
 - k. An inventory shall be completed containing an accurate description of all property removed and the location from where it was removed.
 - l. All copies of inventory sheets shall be signed by the officer executing the search and seizure warrant in the presence of the person from whom property was taken.
 - m. A copy of the warrant, affidavit, property inventory and return form will be left with the person in charge of the location searched. If no one is present to accept the paperwork, it will be left in a conspicuous location where it is reasonably protected from loss or damage.
 - n. Return the executed warrant and property inventory to the issuing judge within ten (10) days of execution.



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- 1) All items taken into custody will be handled and processed as provided for elsewhere in the manual.
11. Search warrants may be necessary to obtain evidence from a person, i.e. clothing worn, fingernail clippings, hair, body fluids, body cavity searches, etc. With this in mind, the following guidelines will be followed:
 - a. If an officer has adequate advance information that a person has or will have on his person items subject to lawful seizure, then he should get a search warrant. An officer should not rely upon the person's consent as the authorization for the search.
 - b. If a suspect or witness is asked to provide exemplars for comparison and he refuses, application may be made to a Court of Competent Jurisdiction for a search warrant requiring the production of the desired evidence.
 - c. If a person refuses to permit an authorized search, or if there is good reason not to search in public (a strip search, for example), an officer may use reasonable force to detain him, or to take him to a place where the search can be appropriately conducted.
 - d. To execute a search warrant for the search of a person, premises may be entered under the same circumstances and in the same manner as allowed in the execution of an arrest warrant, and reasonable force may be used to make the search.
 - e. While a search may be made only for those things described in the warrant, if, while making such a search, an officer comes upon some other evidence of this or any other crime, it may be seized.
 - 1) If a weapon is carried in violation of the law the officer may take it.
 - 2) If a weapon is carried legally an officer may still take it to protect himself but the person searched must be told where he can get it back.
12. Exceptions to the general rule are:
 - a. To avoid a possible loss of evidence, property which is under the temporary control of an officer may be held while a warrant authorizing a further search is obtained. Moreover, in some such instances where probable cause to obtain a warrant does not immediately exist, the property may be held pending a reasonable brief investigation to determine whether there is in fact probable cause for a search warrant. In a recent Maryland Court of Appeals decision (Valdez vs. State), the courts held that an affidavit is not limited to a writing prepared by the affiant. The requirement may be fulfilled by the affiant swearing to the truthfulness and accuracy of a written statement, regardless of who prepared the document.
13. Generally, when there is sufficient time and no opportunity to tamper with, remove, destroy, conceal, etc. property/evidence, a search warrant should be obtained.

D. Search Incident to an Arrest

1. A search incident to a lawful arrest is permitted to:
 - a. Protect the arresting officer and others.
 - b. Prevent escape or suicide.
 - c. Seize fruit, instrumentalities, and contraband relating to that arrest.



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- d. Prevent the destruction of evidence.
 - 2. An arrest may not be used simply as an excuse to conduct a general search for evidence. When an officer makes an invalid arrest, he cannot use that as an excuse to search the arrestee for evidence of a different offense for which the officer had no arrest warrant, probable cause to arrest, or no search warrant. Courts are particularly suspicious in cases involving searches incident to the arrest of minor traffic offenses.
 - 3. The arrest must be lawful. If the arrest is unlawful for any reason, the incidental search of the arrested person is also unlawful, and any fruits of such a search will be inadmissible in court.
 - 4. If practical, the arresting officer should conduct the search. If an officer arrests someone and does not search him, but later allows another person to search him, the subsequent search may be held unlawful.
- Note: Notwithstanding the fact that a prisoner has been previously searched, when he is transferred from the custody of an officer, a subsequent search may be made for the protection of the receiving officer.
- 5. Until an arrest has been made, there is no right to search. If the search precedes the arrest and supplies the probable cause for the arrest, the search is unlawful unless it can stand without use of the incident-to-arrest rule. But if an officer has the right to arrest on a warrant or probable cause and he intends to arrest, but because of a sudden emergency or dangerous situation (e.g., possible escape of the person to be arrested or destruction of evidence) he first grabs the weapon, narcotics or other item, and then arrests, the seizure is lawful. This is an exception, however, and the courts will apply it strictly.
 - 6. A search made incidental to an arrest must be conducted as soon as practical after the arrest. If it is not feasible to search immediately after making the arrest, an officer should do so as soon after the reason for delaying the search has passed. This rule gives an officer the right to search a person lawfully arrested only to protect himself, to prevent escape, and to prevent the destruction of evidence. If an officer delays a search, it may appear that he was not concerned about any of those three possibilities and that he conducted the search for some other reason.
 - 7. As a general rule, an officer may search the arrested person, everything in his possession, and everything which, in the course of the arrest, is within his immediate reach.
 - a. Anything in the actual possession of the person arrested may be searched (for example, a carton, suitcase, or purse being carried by the arrestee).
 - b. The things within the reach of the person or within his immediate physical surroundings may be searched.
 - c. In an emergency situation posing a danger to human life, the scope of the permissible search may extend beyond the person's immediate surroundings.
 - d. A search for things within a body cavity may be conducted, only as prescribed by Department policy.
 - e. Where an arrestee has on his person some article showing ownership of or right to control personal property from which he is temporarily separated, (e.g., where the arrestee has a locker key in his possession and the arresting officer wishes to search the



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locker) the officer generally may not search for and seize such property unless there is danger that someone else will remove the property before a warrant can be obtained. Similarly, if in the course of an arrest an officer observes a suitcase or other closed item in open view but not in the arrested person's actual physical possession, then the item may be seized as a protective measure, but a search warrant should be obtained before opening it.

8. Generally, anything in the possession of the person being searched may be subject to seizure, whether it be for evidence, the protection of the officer, safekeeping, fruits of the crime for which the arrest was made, fruits and/or instrumentalities of another offense, contraband, etc. Additionally, an officer lawfully on the premises as when legally effecting an arrest, observing contraband, fruits, weapon, instrumentalities or evidence of that immediate investigation and/or of an unrelated incident in "plain view" may seize these items even though they may not be considered to be in the immediate possession of the person being arrested, and there is no search warrant available. It must be understood that the "plain view" doctrine is a seizing doctrine and does not in itself automatically constitute the authority for an additional search beyond the seizure of an item in plain sight.
9. When making a reasonable search of the person (whether incidental to arrest or with a search warrant) an officer may use only that degree of force necessary to protect himself, prevent the escape of the person being searched, and prevent the destruction of evidence. The test for determining if the use of force is proper is whether, in the officer's judgment, he felt required to use such force to accomplish any of the previously-mentioned ends. Note: If an arrestee is concealing something in his mouth, an officer may use reasonable force to prevent the person from swallowing the evidence and to remove the object.

E. Strip Searches

1. The supervisor shall approve, on the docket card, all strip searches. (1.2.8a)
2. A strip search is any search of an individual requiring the removal or rearrangement of some or all clothing to permit the visual inspection of the skin surfaces of the genital areas, breasts, and/or buttocks, without any scrutiny of the arrestee's body cavities.
3. The officer will conduct strip searches only in the following situations: (1.2.8a)
 - a. When the officer has reasonable cause to believe an arrestee is concealing a weapon,
 - b. When the officer has reasonable cause to believe an arrestee is concealing contraband, or
 - c. Upon the authority of a valid search warrant.
4. Strip searches shall only be conducted in a secluded, private area by a Department employee of the same sex; and will be performed professionally and efficiently, showing care for the arrestee's privacy and comfort. (1.2.8b)

F. Strip Search Reporting Requirements (1.2.8d)

1. The officer shall document the strip search in the "Strip Searched" section of the Prisoner Arrest Record (Docket Card):
 - a. Name of person who performed the strip search
 - b. Date and place of the strip search, and



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- c. The names of the officer(s) who witnessed the strip search.
2. The supervisor shall indicate his/her approval in the "Strip Searched" section of the Docket Card with a signature and ID number.

G. Search of Body Cavity (1.2.8a)

1. Without a warrant
 - a. Searches of mouths are allowed
 - b. Reasonable force may be used to prevent objects from being swallowed when officers have probable cause to believe that detainees are concealing something in their mouths.
2. With a warrant
 - a. A search for things within a body cavity (other than the mouth) may be conducted upon authority of a valid search warrant.
 - b. There must be probable cause to believe that the person has within his body evidence which should be removed.
 - c. A State's Attorney shall be consulted before such a search when made incident to an arrest.
 - d. The subject to be searched will be transported to a hospital where the search must be performed in a private area, by a licensed doctor or nurse using a medically approved procedure. (1.2.8b)
 - e. Force may be used only to the extent necessary to effect submission to the examination.

H. Body Cavity Search Reporting Requirements (1.2.8d)

1. Following a body cavity search, the investigating officer shall document in the Incident Report, at a minimum:
 - a. Date and place of the search
 - b. The name of person performing the search
 - c. The name of the person searched
 - d. The names of those present during the search
 - e. A detailed description of the nature and extent of the search
 - f. Name of the supervisor who approved the search

I. Seizure of Abandoned Property

1. If in the course of a lawful arrest (or other lawful action by an officer, such as a surveillance or questioning of a person), a person discards personal property at some place outside his dwelling or its curtilage, an officer may seize such property (even though it is then beyond the person's physical control) on the grounds that it has been abandoned.
 - a. To constitute abandonment for this purpose, there is no requirement that the person intended to get rid of the property permanently.
 - b. If the property is discarded in response to an unlawful arrest or unlawful entry by an officer, a seizure of the property is also unlawful.



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- c. If the property is discarded in the person's dwelling or its curtilage (or in his hotel room, automobile, or any other area he controls), it cannot be considered abandoned and cannot be seized. However, if the property thus discarded can be identified on sight as evidence of a crime, it can be seized just as any other evidence in open view can be seized.

2. Examples of Legally Seized Abandoned Property:

- a. A package of heroin picked up from the street after a scuffle during an arrest in an automobile.
- b. A package of narcotics which landed in a public courtyard after being thrown out of the window of an apartment by a woman under surveillance.
- c. An envelope dropped to the floor of the police station by a man under arrest.
- d. Two small packages dropped to the sidewalk by a narcotics suspect under surveillance.
- e. An object dropped on the street by a man stepping out of his car for questioning.

J. Stop and Frisk (1.2.4)

1. This expansion of a constitutionally permissible search permits a police employee to conduct a carefully limited examination of an individual's outer clothing. The purpose of the examination is the discovery and seizure of offensive weapons, i.e. handgun, dirk knife, Bowie knife, switchblade, sand club, metal knuckles, razor, *nunchaku*, or any other dangerous or deadly weapon(s) concealed upon or about the individual. This search is permitted when the individual is reasonably suspected to be armed and dangerous and immediate action must be taken to protect the member or the public.
2. Both the "Stop" and the "Frisk" must be supported by reasonable and articulable suspicion; an un-particularized suspicion or "hunch" will not suffice.
3. The following circumstances may be considered by the officer in determining whether sufficient reasonable suspicion exists to justify a stop. This list is not intended to be all-inclusive.
 - a. The appearance or demeanor of the suspect.
 - b. His actions.
 - c. The hour.
 - d. The neighborhood.
 - e. Bulges in the suspect's clothing which may suggest a concealed weapon.
 - f. The appearance of objects the suspect may be carrying.
 - g. The suspect's proximity to a known crime scene.
 - h. Prior knowledge of the officer including.
 - 1) Suspect's prior record.
 - 2) Information from an informant or third party.
 - 3) Any overheard conversation.



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4. Once sufficient reasonable suspicion is established and the officer decides to initiate the stop, he will:
 - a. Be clearly identified as a police officer:
 - 1) By being in police uniform, or
 - 2) If not in uniform, by announcing that he is an officer and at the same time displaying his badge or other police credentials.
 - b. The officer should display courtesy in his contact with the suspect.
 - c. Every consideration must be shown for the rights of the suspect.
 - d. Question the individual stopped to discover his name, address, and an explanation of the suspect's actions.
 - 1) The suspect may not be compelled to supply the answer to these or any other questions.
 - 2) If the suspect refuses to answer the officer's questions or identify himself, he may be questioned further, but may not be unduly detained nor may he be deprived of freedom of movement in any significant way unless the officer is prepared to make a formal arrest in accordance with the legal requirements for an arrest.
 - 3) The failure or refusal to answer questions, or answers considered unsatisfactory is not alone sufficient to constitute probable cause for an arrest without a warrant and there must be some independent justification. The failure or refusal to answer questions does not bar a "frisk," if the officer reasonably suspects danger to his own or another's safety.
5. In determining whether reasonable suspicion exists sufficient to support the "frisking" of the suspect, the following factors may be considered:
 - a. The type of crime suspected and whether or not a crime of violence or a crime involving the use of a deadly weapon.
 - b. Reasonableness of the officer's fears for his safety or the safety of others. Where the officer must deal with more than one suspect, or where the officer does not have help close at hand, the situation may create increased danger.
 - c. The hour.
 - d. The neighborhood.
 - e. Is the suspect known to the officer? Does he have a record? Is he disposed to violence?
 - f. The appearance or demeanor of the suspect.
 - g. Bulges in the suspect's clothing which may suggest a concealed weapon.
 - h. Age and sex of the suspect.
 - i. Any other information perceived by the officer bearing on the suspect's potential for violence.
6. When the officer has knowledge or information regarding one or more of the above factors or any other information sufficient to justify reasonable suspicion that the person stopped is presently in possession of an offensive weapon, he may frisk him.



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a.	The frisk that is permissible is limited to a patting down of the suspect's outer clothing for the discovery of such weapons and for no other purpose.
b.	If the frisk fails to disclose evidence of an offensive weapon, no further search may be made.
c.	However, if the frisk indicates reasonable suspicion that the suspect has an object on his person that could be a weapon, the officer is authorized to search that part of the suspect's clothing containing such object, but he may not search any further.

7. If the object felt and found in the course of the frisk is in fact an offensive weapon and the evidence is that the possession thereof violates the law, the officer may arrest the suspect committing a crime in his presence.

a.	Incident to such a lawful arrest, the officer may make a further, more detailed, search of the suspect and his immediate surroundings.
b.	If the officer searches in or beneath the clothing of the suspect in the belief that an object felt in patting him down is a weapon and it turns out not to be a weapon but an item of contraband or evidence of a crime, the object may nevertheless be used to justify arrest of the suspect.

8. Every police employee conducting a stop and frisk shall, within twenty-four hours after such action, complete the top portion of a Firearms Report (MSP Form 97), as well as any related field reports necessary as the result of the stop and frisk.

a.	A copy of all such reports will be forwarded through channels to the Chief of Police or his designee.
b.	If a handgun was discovered to be carried, legally or illegally, the Firearms Report (MSP Form 97) will be forwarded to the Maryland State Police Licensing Division, Handgun Permit Unit, who will complete the remainder of the form and return it to the employee.
c.	Upon receipt of the completed MSP Form 97, a copy will be sent to the Chief of Police or his designee.

K. Search of Premises (1.2.4)

1. An officer may search premises without a warrant in the following situations:
 - a. Emergencies - An officer may search if there is no time to get a warrant and the situation requires immediate action, e.g. when he hears a scream from inside a house followed by a gunshot.
 - b. Hot Pursuit - He may search if he is chasing an escaping suspect or is about to catch up with one who is ready to flee.
 - c. Contraband - He may search if he knows that contraband is threatened with immediate removal or destruction.
 - d. Incidental to a Valid Arrest - He may search in the course of a valid arrest if necessary to protect himself, prevent the escape of the arrestee or to seize evidence relating to the reason for which the arrest is made that is within the actual or constructive possession of the arrestee.



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- e. Plain view doctrine - When contraband and/or evidence is observed by an officer who is legally present at a location, i.e. serving an arrest warrant, investigating an incident, etc.
- f. Consent search - (discussed later in this Section.)
- g. Abandoned property - A dwelling that has been permanently vacated, i.e. hotel room, rented space, etc., may be searched without a warrant and without the permission of the previous tenant. The consent of the property owner or agent should be obtained.
- h. Open fields - Under certain conditions "open fields", even though privately owned, may be searched without a warrant. In *Oliver vs. U.S.*, The Supreme Court held that "open fields" do not enjoy the same reasonableness as to privacy as does a home, office, commercial structure, etc.
- i. Observation of a dwelling or its curtilage may be made without a warrant from any place outside the curtilage. A telescope, binoculars, flashlight, and similar devices may be used in such surveillance, as long as there is no physical trespass onto the curtilage.
- j. Listening to conversations or other sounds occurring in a dwelling or its curtilage may be accomplished without a warrant if there is no physical trespass onto the curtilage and if no electronic or mechanical device is used to hear the conversation or sounds. If a physical trespass is necessary, or if an electronic or mechanical device is necessary, a warrant must be obtained.

2. The above situations are the exceptions to the rule and searches made under such circumstances will be closely reviewed by the court as to their propriety. Generally, in situations other than those indicated, a search warrant should be obtained to conduct a search of a dwelling and/or its curtilage.
3. The following information is provided to assist personnel when establishing the limitations of the search of a dwelling.
 - a. A dwelling includes any place intended to be occupied by people to include: private residences, apartments, hotel/motel rooms, places of business and offices.
 - b. "Curtilage" is the open space associated with the dwelling. Whether an area is within the curtilage depends principally on its closeness to the dwelling, its being within any general enclosure which may surround the dwelling, and its use by the occupants of the dwelling.
 - 1) If there is doubt as to whether the place to be searched is within the curtilage, a warrant should be obtained.
 - 2) Examples of places considered to be within the curtilage include:
 - a) An enclosed backyard of a residence.
 - b) A farmer's barn separated by a driveway from his house seventy yards away.
 - c) A trash can under the stone porch of a house.
 - d) A closed cupboard in a common hallway leading to the suspect's apartment in apartment building.
 - c. When conducting a lawful search, an officer may look for weapons, contraband, fruits of a crime, instrumentalities of a crime and other evidence.



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4. Search of Premises Incidental to Arrest

- a. In the course of a lawful arrest, an officer may search not only the arrestee's person, but also a limited portion of the premises which is within the arrestee's immediate control and from which he might be able to reach a weapon or destructible evidence. The area to be searched may be expanded if there is cause to believe there may be other persons on the premises who may reasonably be expected to interfere with the arrest or attempt to destroy evidence. A search of the surrounding area for such persons may be made. The sole justification for such a search is to find and seize:
 - 1) Any weapons the arrestee may seize to resist the arrest or to effect an escape.
 - 2) Any evidence the arrestee might try to conceal or destroy.
 - 3) The protection of the officer and others present.
- b. If while making a lawful arrest, or making a protective search for other persons on the premises, evidence of any crime is seen lying in open view it may be seized even though it is beyond the arrestee's immediate control.
- c. If an arrest is effected at a certain place or time as a subterfuge to conduct a search of those premises, the search may be invalid.
- d. Since a search incident to an arrest is very limited in scope, it is better to secure a search warrant at the same time that the arrest warrant is issued if a detailed search is to be conducted.
 - 1) When this is not possible, or when a warrantless arrest is made, a search warrant should be applied for immediately after the arrest.
 - 2) It is proper to allow an officer to guard the premises to prevent the destruction of evidence while the warrant is being secured.

5. Crime Scene Searches

- a. Entry and subsequent warrantless search of a premise is permitted in emergency situations when exists reasonable belief exists that there is within a need for immediate assistance. (*Thompson v. Louisiana* 105 U.S. S.Ct. 409 (1984).
 - 1) Further, law enforcement personnel at the scene of a homicide or similar serious offense may conduct a warrantless search to locate victims and/or suspects (*Mincey v. Arizona* 437 U.S. 385 (1978).
 - b. The scope of the search is strictly limited by the existence of the emergency exigent circumstances.
 - c. Evidence and/or contraband observed in plain view during this restricted search may be properly seized.
6. In instances where the Defendant has standing, the fact that a crime has occurred at a specific location does not automatically authorize an unlimited search of the premises. Unless the situation meets the existing exceptions to warrant requirements, including the emergency situation, a warrantless search of a crime scene will be unreasonable and any evidence discovered during the search will be inadmissible at trial.
7. Administrative Search Warrants



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- a. The U.S. Supreme Court has held that; officials may enter a premise to fight a fire without a warrant and once in the building, officials may remain for a reasonable time to investigate the cause of the fire; additional visits to the scene to investigate the cause of the fire will be done pursuant to the warrant procedures governing administrative searches; and evidence discovered during the initial presence at the scene is admissible in court; and, evidence of arson discovered in the course of such investigations is admissible, but, if investigating officials find probable cause to believe that arson has occurred and require further access to gather evidence, they may obtain a warrant only upon the traditional showing of probable cause applicable to searches for evidence of a crime. (*Michigan v. Tyler* 1978 436 US 499).
- b. Department personnel, with the concurrence of the Chief of Police or his designee, may apply to a judge of the district court or a circuit court for an administrative search warrant to enter any factory, warehouse, vehicle, residence, building, establishment, or other premises where a fire has occurred to conduct a search to determine the cause and origin of the fire.
- c. The application shall be in writing and signed and sworn to by the applicant and shall particularly describe the vehicle, building or premises to be searched and the nature, scope and purpose of the search to be performed by the applicant.
- d. A judge of a court referred to in subsection (b) above may issue the warrant on finding that:
 - 1) a fire of undetermined origin has occurred on the premises;
 - 2) the scope of the proposed search is reasonable and will not intrude unnecessarily on the fire victim's privacy;
 - 3) the search will be executed at a reasonable and convenient time; and
 - 4) The owner, tenant, or other individual in charge of the property has denied access to the property, or after making a reasonable effort, the applicant has been unable to locate any of these individuals.
- e. An administrative search warrant issued under this provision shall specify the place, structure, premises, or vehicle to be searched. The search conducted may not exceed the limits specified in this warrant.
- f. An administrative search warrant issued under this provision shall be executed and returned to the judge by whom it was issued within:
 - 1) The time specified in the warrant, not to exceed 30 days; or
 - 2) If no time period is specified in the warrant, 15 days from the date of its issuance.

L. Vehicle Searches

1. The limitations of vehicle searches are varied and must be based on the existence of specific conditions. These conditions and limitations will be discussed individually in this subsection.
2. The laws governing searches of vehicles provide expanded latitudes to the police employee. These considerations are based on the need to protect the law enforcement officer, mobility of the vehicle, increased opportunity for contraband/evidence to be lost/destroyed, and,



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finally, probable cause. The Carroll Doctrine established the parameters of vehicle searches and has been recently reinforced by two U.S. Supreme Court rulings: U.S. vs. Ross and Belton vs. New York. Generally, vehicles may be searched without a warrant:

- a. incident to an arrest of one or more of the occupants.
 - b. when seized as evidence.
 - c. when probable cause exists that it contains seizable items.
 - d. when it has been abandoned.
 - e. under the "Open View" or "Plain View doctrines.
3. With regard to Search Incident to Arrest, the Supreme Court changed the criteria for searches of cars based on the arrest of one of its occupants when it decided *Arizona v. Gant* in April 2009. A search may be conducted incident to an arrest of one or more of a vehicle's occupants, if the following criteria exist:
 - a. The arrestee is not handcuffed and is within the reaching distance of the vehicle. "Reaching Distance." (The Supreme Court said in *Gant* that because police have many means available to secure the occupants, the "Reaching Distance" justification for a search of the vehicle will rarely apply), or
 - b. You have reason to believe there is evidence in the car which relates to the offense for which you have just arrested an occupant: "Reasonable Basis." The search must be related to the offense for which you have arrested the occupant.

Note: The Supreme Court has also said, about traffic related offenses, such as driving while suspended, "In many cases, as when a recent occupant is arrested for a traffic violation, there will be no reasonable basis to believe the vehicle contains relevant evidence."
4. Generally, vehicles may be searched without a warrant:
 - a. when seized as evidence
 - b. when probable cause exists that it contains seizable items
 - c. when it has been abandoned
 - d. under the "Open View" doctrine
5. A search of a vehicle incident to a lawful custodial arrest of one or more of its occupants is predicated on the officer's right to protect himself and others, seize evidence and prevent the destruction of evidence. The search may include the person(s) arrested, the interior (passenger compartment) of the vehicle and any packages, containers and property, either opened or closed, contained therein. Locked containers should not be searched as this has been interpreted to preclude the arrestee's ability to reach the contents. In order for the search to be valid, it must:
 - a. be a lawful custodial arrest.
 - b. the search must be contemporaneous (close in time and place) to the arrest. Since the search incident to a lawful custodial arrest is predicated on the possibility of the arrestee utilizing a weapon, destroying evidence, by delaying a search until a later time, i.e. after removal of the suspect, and relocating the vehicle, there would be no grounds for the search without a warrant. The police officer may summon additional manpower



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to secure the suspect(s) at the scene or reasonably close thereto while the arresting officer conducts the search of the entire passenger compartment, as well as any containers found within. Probable cause or even mere suspicion that contraband, evidence or a weapon is in the vehicle is not required. This criterion is applicable only to lawful incident to arrest situations. (*Belton vs. New York*).

6. Warrantless searches of vehicles based on probable cause that seizable property is contained therein is validated by the imposition of a separate set of circumstances.
 - a. The Carroll Doctrine establishes that a police officer having probable cause that a vehicle contains seizable items may search a mobile vehicle which could conceivably leave the jurisdiction before a warrant could be obtained.
 - b. The scope of the probable cause will always determine the scope of the search. (*U.S. vs. Ross*).
 - 1) If probable cause establishes that the vehicle contains a specific item, then the reasonableness and scope of the search will be determined by the nature of the item sought and its being located, if:
 - a) it is established that the vehicle contains stolen weapons (unknown quantity), then the search of a matchbox found in the vehicle may be held unreasonable, while searching a trunk found in the luggage compartment would be reasonable. The search could continue until all weapons that could be concealed are located.
 - b) probable cause establishes that the vehicle is used to conceal a specifically identified container, then the search is limited to those locations where the container may be hidden and continued only until the container is located. The container would be searched following the acquisition of a warrant.
 - c) probable cause establishes that the vehicle contains contraband. Generally, the search would continue until all areas of the vehicle which could contain contraband have been explored.
 - d) a lawful arrest is made. The search may be expanded based on the search incident to arrest principle.
 - c. When a vehicle is to be searched without a warrant based on probable cause, it may:
 - 1) be searched at the location it was first stopped or taken into custody; or
 - 2) searched after being removed to another location for reasons of safety, custody, convenience.
 - d. The time factor is not as critical in probable cause situations, especially when the vehicle is in the custody of the Department; however, if unusually delayed, may be questioned as to why a warrant was not obtained.
 - e. Generally, this rule permits the search of a "mobile" vehicle even though there is no danger that the vehicle may be taken or the evidence destroyed.
 - f. If probable cause is not obtained until after the vehicle has lost its mobility or until it was taken into custody a warrantless search would be improper.



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7. Whenever possible, a vehicle to be retained as evidence or for further processing should be driven from its place of recovery to a Department holding facility (Public Works garage) by the investigating officer to provide for the proper safeguarding and chain of custody of evidence.
 - a. When it is not possible to drive the vehicle from its place of recovery to a holding facility, the investigating officer shall arrange for such removal by a Department-dispatched tow vehicle.
 - b. The officer should secure the vehicle prior to towing and follow the vehicle as it is being towed to its destination to provide for the proper safeguarding and chain of custody of evidence.
8. Scope
 - a. A vehicle used to violate laws concerning the transportation of liquor, cigarettes, or narcotics, etc. can be seized without a warrant and subject to forfeiture. The seizure need not be incidental to an arrest, as long as there is probable cause to believe that the vehicle was used in the conduct of the criminal activity. The search of a seized vehicle may be made at the place where custody was first obtained or at another place and another time.
 - b. If the vehicle is taken as evidence of a crime, either as an instrumentality by which the crime was committed (e.g. a hit-and-run homicide) or as fruit of a crime (a stolen car), it may be subject to a later, more careful examination just as is any other lawfully seized item.
 - c. The inventory of vehicles and other objects under police control, where they have lawful custody is proper when done to protect the owner against property loss, to avoid a claim of destruction, and to protect the police against any hidden danger. Police cannot assume custody as a pretext for inventory where such an inventory is not reasonably necessary. The inventory must be carried out as part of established Department procedure.
 - d. An abandoned vehicle may be seized and searched without a warrant and without probable cause.
 - e. Evidence of probable cause justifying a search of a vehicle does not necessarily empower an officer to search its un-arrested occupants. A thorough search of an occupant may be justified only if the officer has probable cause to believe that he possesses evidence of a criminal offense. The officer may, however, pat down the outer clothing of any occupant whom he reasonably suspects may possess a weapon and whom he feels poses a danger to himself or others.
 - f. The “plain view” doctrine applies to all vehicles.
 - 1) Any contraband or evidence of a criminal offense seen while the officer is in the proper conduct of an investigation or while interviewing an occupant of the vehicle, may be seized and will justify probable cause for a subsequent arrest and a more detailed search.
9. Force



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- a. If an officer has a legal right to search a vehicle and if the occupant refuses to allow him to proceed, he may use whatever force is reasonable and necessary to affect the search.
- b. Using unreasonable force to stop a vehicle may make the subsequent search of that vehicle illegal even though it was based on probable cause.

10. Roadblocks

- a. A roadblock may not be established for the purpose of arbitrarily stopping all traffic so that searches may be conducted.
- b. However, courts have upheld the use of a roadblock to stop vehicles in order to permit the search of a particularly described automobile, or a car containing particularly described occupants.

M. Consent Search (1.2.4)

1. The Rule

- a. One's consent to a search of his person or property under his control by an officer acts as a waiver of his Fourth Amendment right to be free from a search without a warrant.
 - 1) Therefore, a search based on consent is lawful, even where there is no other justification for the search, if:
 - a) the consent is made with the knowledge that he need not consent to a search;
 - b) the consent is voluntary, i.e., freely given without duress or coercion; and
 - c) the consent is clear and explicit.
- b. Any waiver of a constitutional right will be examined carefully by the courts.
 - 1) Therefore, before evidence discovered as a result of a consent search will be admitted at a trial, the State will have to show by "clear and convincing" evidence that the consent was, in fact, freely and voluntarily given by a person who was aware of his right not to consent.

1. The Person must be Aware of His Rights

- a. An officer should explain to the person that he has a right to refuse to consent to a search without a warrant.
- b. If the person indicates that he would like to consult with an attorney or anyone else before deciding whether to consent, he should be given an opportunity to do so.
- c. The courts will examine the circumstances of each case to determine if the individual was aware of his rights.

2. Consent Must Be Voluntary

- a. Consent to a search must be given freely and voluntarily if the consent is to be valid. Any coercion or intimidation, actual or implied, will invalidate the consent. Courts have carefully examined many cases and in a high percentage of these found that submission to an officer's authority was not true consent because it is not "voluntary." Examples include:



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- 1) An officer pounds on a door and announces either that he has come to make a search or that he wants to talk or look around the premises. If he is given permission to enter, courts have often found that there is no valid consent because such a situation creates a coercive atmosphere.
 - 2) What seems to be voluntary consent by a person under arrest may be found to have been induced by his inherently coercive environment.
 - b. Consent which is not the product of coercion, but which is obtained through the use of fraud or misrepresentation, is not voluntary. For example, an officer tells the occupant of a house that he has a search warrant when in fact he does not and consent is given, such consent may be held to be invalid.
 - c. A voluntary confession of guilt which precedes consent to search has been found to indicate that the consent was voluntary.
3. Consent Must Be Clear and Explicit
 - a. Before an officer relies upon consent to justify a search, he should be certain not only that the person is aware of his rights and is under no coercion, but that a clear and explicit consent to search has been given.
 - 1) Consent to enter is not consent to search. But after a legal entry, whatever evidence is in open view may be seized.
 - 2) A statement that an officer is welcome to search may not imply that he is welcome to search without a warrant.
4. Written consent should be obtained where practicable.
 - a. A signed and witnessed waiver provides the best proof of clear, voluntary consent.
 - b. Whenever possible, a Form 11 - Authorization to Search and Seize Property should be used.
5. Who May Give Consent
 - a. A valid consent to a search may be given only by the person with a right to occupy the premises. Examples include:
 - 1) A landlord cannot consent to a search of a tenant's premises, unless the tenant has abandoned the premises or has been evicted.
 - 2) A host can give consent to a search of premises occupied by a guest. But if a particular area of the premises to be searched has been set aside for a long-term guest's exclusive use, or if the search is of an object which is exclusively the guest's, the consent of the host may not authorize a search
 - 3) A parent can give consent to a search of premises occupied by a dependent child.
 - 4) An employee cannot consent to the search of an employer's premises, unless he has been delegated general authority to act as the agent of the employer. An employer may generally consent to a search of premises used by an employee in his work, unless it is a particular area set aside for the employee's exclusive use.
 - 5) A person with custody of personal property belonging to another may consent to its search only if he has been given full control over the property, or if the



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property has been left on his premises without his authorization. Consent by a person having only conditional custody, such as that given for storage or shipment, is not valid.

- b. If two or more persons have equal rights to the occupation of the premises, consent to search may be given by any one of them, but only for the areas of use common to all. It must be understood that refusal to grant consent by one occupant may override the consent given by the other. A legal consent search shall be valid against all occupants. Examples include:
 - 1) Generally, one spouse can consent to a search of a residence shared with the other spouse.
 - 2) One joint tenant can consent to a search of jointly-held premises.
 - 3) A partner can consent to a search of partnership premises.
- 6. Revocation of Consent
 - a. Valid consent to search may be presumed to continue until all areas specified in the consent have been searched.
 - b. Consent may be revoked, however, at any time before the search is completed.
 - c. If consent is revoked prior to completion of the search, all evidence found prior to the revocation may be retained.
 - d. This evidence may be used as probable cause for a subsequent warrant or for an immediate arrest and incidental search.
- 7. Officers shall document in the Incident Report that Consent was granted and explanations if Consent was revoked.



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Supersedes GO 18-091

A. Policy

1. Officers shall accord juvenile offenders the same rights as adults.
2. Officers shall make special efforts, appropriately, to ensure that juvenile offenders understand their rights, and Department and juvenile justice system procedures.

B. Juvenile Programs (44.1.1)

1. This Department has a goal to develop and/or perpetuate programs that might help to prevent and control juvenile delinquency.
2. Officers are encouraged to implement or sponsor APD youth activities, with approvals through the chain-of-command to the Chief of Police and report those activities as community policing functions.

C. Annual Review and Evaluation

1. The Administrative Lieutenant or designee shall conduct an annual review and written evaluation of all enforcement and prevention programs relating to juveniles and shall submit the report to the Chief of Police. (44.1.3)

D. Definitions

1. Juvenile - any person under the age of 18 (whether under juvenile or criminal court jurisdiction) or a person between the ages of 18 to 21 who is still under the juvenile court jurisdiction.
2. Student - an individual enrolled in public school system in the State who is 5 years of age or older and under 22 years of age.
3. Types of Juvenile Offenders
 - a. Offender (Delinquent Child) - A juvenile offender who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.
 - b. Non-Offender (Child in Need of Assistance) - A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.
 - c. Status Offender (Child in Need of Supervision) - A juvenile who has been charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

E. Managing Juvenile Offenders

1. Officers shall use their discretion when managing juvenile offenders and will use the least coercive among reasonable alternatives—consistent with preserving public safety, order, and individual liberty—which may include but are not limited to:
 - a. Outright release with no further action; (44.2.1a)
 - b. Issuing citations or summons to appear to the juvenile in the presence of their parents or guardians and releasing the juvenile to the parents or guardians; or (44.2.1b)
 - c. Contacting Juvenile Services, who will arrange to transport the juvenile to another appropriate facility for adjudication. (44.2.1c)



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2. Officers shall take into consideration the following factors when making decisions about juvenile offenders: (44.2.1b)
 - a. The nature of the alleged offense;
 - b. The age and circumstances of the alleged offender;
 - c. The alleged offender's record, if any;
 - d. The alleged offender's behavior toward the officer.

F. School Resource Officer (SRO) Notification

1. Officers shall notify the appropriate SRO when a juvenile who attends a Harford County Public School is arrested or referred to the Department of Juvenile Services.
 - a. This notification will be made by the end of the arresting or referring officer's tour of duty.
2. The arresting or referring officer shall provide to the SRO the juvenile's full name, date of birth, grade, and the charges.
3. The arresting or referring officer shall forward a copy of the Juvenile Report and written FBR report to the SRO within 48 hours of the incident.

G. Taking Juveniles into Custody

1. Officers may take a juvenile into custody if there is probable cause to believe the juvenile has engaged in noncriminal misbehavior (a status offender) such as: (44.2.2a)
 - a. Truancy;
 - b. Habitual disobedience;
 - c. Ungovernability; and
 - d. Offenses that might be applicable only to children (such as running away).
2. The officer will notify the parents/guardians directly or will have the parents/guardians notified as soon as the officer ascertains the contact information.

H. Searching Arrested Juveniles (1.2.8c)

1. The officer shall pat down the juveniles' outer clothing when searching the juvenile.
2. The officer shall record on the Juvenile Arrest Record (docket) the:
 - a. Name and ID# of the officer who performed the search;
 - b. Date and Time of the search;
 - c. Name and ID# of the officer who witnessed the search; and
 - d. Date and Time the officer witnessed the search.
3. A strip or body cavity search of a juvenile is prohibited.

I. Transportation of Juveniles in Custody

1. Except for medical emergencies, officers shall transport juveniles placed in custody to the Temporary Detention Area (Booking) without delay. (44.2.2d)



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2. Officers shall not transport a juvenile together with adults who have been charged with or convicted of a crime unless the court has waived its jurisdiction and the child is being proceeded against as an adult.
3. Officers shall ensure that the juvenile's parents/guardians are notified of the circumstances as soon as possible. (44.2.2e)

J. Interrogation of Juveniles (44.2.3)

1. Officers shall ensure juveniles are provided their constitutional rights, using Form 0012 - Explanation of Miranda Warnings, regarding statements and confessions. (44.2.2c)
2. Officers shall have a parent or guardian present when a juvenile under 15 years of age is to be questioned and advised of his/her rights. (44.2.2c)
3. Officers shall confer with the parent or guardian to explain the interrogation process for juveniles 15 years of age and over.
4. Officers shall conduct interrogations/interviews in the same general manner as adult interrogations/interviews.
5. Officers shall limit the duration of the interrogation as appropriate to the juvenile's age and nature of the alleged offense but will not exceed two hours without offering a break.
6. The number of officers engaged in the interrogation shall not exceed two at any given time.
7. Officers shall confer with parents or guardians, before, during, or after the interrogation, to discuss
 - a. The interrogation process;
 - b. The circumstances of the case; and
 - c. The legal status of the juvenile.
8. Polygraph Examination
 - a. Before a juvenile submits to a polygraph examination, the testing officer shall have a parent, guardian, or juvenile authority sign a Polygraph Waiver and Release form in the presence of the investigating officer or examiner.

K. Reports

1. Officers shall complete and submit the Juvenile Arrest Record (Docket Card) with the Incident Report to the reviewing supervisor for Department processing.

L. Temporary Detention of Juvenile Offenders

1. The officer may place a juvenile in temporary detention when:
 - a. The parent or guardian cannot be located.
 - b. The parent or guardian is located but refuses to pick up the child.
 - 1) If the parent or guardian refuses to respond solely because of inconvenience to themselves due to lateness of the hour, etc., they are to be advised that they may be charged with Deserting a Minor Child under *Family Law §10-203*.
 - 2) If after being advised and the parent or guardian still does not respond, the child will be placed in detention and the parent or guardian may be charged later.



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- c. The parent or guardian is located but does not have transportation and/or cannot leave the home because of other smaller children, etc.
 - 1) If the circumstances indicated so warrant, every reasonable effort shall be made to provide transportation for the child to the home where release by the signing of the proper forms will be affected.
 - 2) The determination for this transportation will be made by the officer.
- d. The officer has reason to believe the child will leave the jurisdiction.
- e. The officer has reason to believe the child will bring harm to him or herself or someone else.
- f. The juvenile is arrested on a "Writ of Attachment."
 - 1) The juvenile shall be processed as such unless the State's Attorney's office advises differently.
- g. When it is necessary for the officer to determine whether the juvenile is alleged to have been harmed or to be in danger of harm (a non-offender) (44.2.2b).
- 2. The officer shall treat the juvenile as an adult in the following situations:
 - a. When the juvenile is 14 years old or older and is alleged to have done an act which if committed by an adult would be a crime punishable by death or life imprisonment, as well as all other charges against the juvenile arising out of the same incident.
 - b. When the juvenile is 16 years old or older and is alleged to have committed the crime of robbery with a deadly weapon or attempted robbery with a deadly weapon, as well as all other charges against the juvenile arising out of the same incident.

M. Separation of Juveniles from Adult Offenders (71.3.1e)

- 1. Officers shall separate juveniles by sight and sound from adult offenders.
- 2. The patrol supervisor is responsible for ensuring that juvenile and adult offenders are properly separated.

N. Maximum Detention Time for Juveniles

- 1. Officers may detain juvenile criminal offenders in temporary detention cells for a period of up to 6 hours for identification, processing, or transferring to another facility.

O. Release of Information on Juveniles

- 1. Department personnel shall not release information on juvenile arrests, which are confidential and not subject to public inspection.
 - a. Exception: Arrests of juveniles charged as adults, after review by the Chief of Police.

P. Notifying Public School Superintendent

- 1. When an officer charges a juvenile with one or more reportable offense, the officer will obtain the name of the school the person attends and the appropriate school district and will record the information on the Arrest Report under "Employer's Name and Address."
- 2. The Patrol Lieutenant or designated SRO shall ensure that the appropriate Maryland Public School Superintendent or designee is notified, within 24 hours, regarding any student charged with a reportable offense.



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3. Reportable offenses are as follows:
- a. Kidnapping
 - 1) Abduction, kidnapping or any attempt.
 - b. Arson
 - 1) Arson in the 1st degree or any attempt.
 - c. Assault
 - 1) Assault in the 1st or 2nd degree; and
 - 2) Assault in the 2nd degree.
 - d. Murder Manslaughter
 - 1) Murder in the 1st or 2nd degree murder;
 - 2) Attempted murder in the 1st or 2nd degree; and
 - 3) Manslaughter, except involuntary manslaughter.
 - e. Rape Sexual Offense
 - 1) Rape in the 1st or 2nd degree rape;
 - 2) Sexual offense in the 1st degree, 2nd degree, or 3rd degree;
 - 3) Attempted rape in any degree; and
 - 4) Attempted sexual offense in any degree.
 - f. Robbery
 - 1) Robbery or any attempt; and
 - 2) Robbery with a dangerous weapon or any attempt.
 - g. Carjacking
 - 1) Carjacking; and
 - 2) Armed carjacking or any attempt.
 - h. Drug Offenses
 - 1) All felony drug offenses.
 - i. Firearm
 - 1) Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime;
 - 2) Possession of regulated firearms;
 - 3) Sale, rental, or transfer of regulated firearms;
 - 4) Sale, transfer or disposal of stolen regulated firearm;
 - 5) Possession of short-barreled rifle or short-barreled shotgun; and
 - 6) Possession by a felon.



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Chapter 28 Criminal Procedures
Section 06 Juveniles

GO 19-003, 02/04/2019
Supersedes GO 18-091

- j. Handguns
 - 1) Wearing, carrying or transporting a handgun;
 - 2) Use of a handgun in the commission of a felony or other crime of violence;
 - 3) Use of a machine gun in crime of violence;
 - 4) Use of machine gun for aggressive purpose; and
 - 5) Wearing or carrying dangerous weapons.
 - k. Dangerous Weapons
 - 1) Wearing or carrying a concealed dangerous weapon of any kind; and
 - 2) Wearing or carrying a dangerous weapon, chemical mace, pepper mace, or a tear gas device openly with the intent or purpose of injuring an individual in an unlawful manner.
 - l. Deadly Weapons on School Property
 - m. Destructive Device
 - 1) Manufacturing, transporting, possessing, controlling, storing, selling, distributing, or using a destructive device; and
 - 2) Possess explosive material, incendiary material, or toxic material with intent to create a destructive device.
 - n. Child Abuse
 - o. Witness Intimidation
 - p. Extortion
 - 1) Extortion by verbal threat.
4. Officers are not required to notify school officials of juveniles that attend private school or are not currently attending school.



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Chapter 28 Criminal Procedures
Section 07 Warrants and Summonses

GO 18-064, 07/25/2018
Supersedes GO 16-009

A. Policy

1. The Aberdeen Police Department is responsible for the prompt and effective recording, execution, and maintenance of warrants and summonses received for service.

B. Responsibilities for Warrants and Summonses

1. The Administrative Lieutenant is responsible for the management of arrest warrants and criminal summonses control systems.
2. The Administrative Supervisor is responsible for the maintenance and control systems.
3. PCO's are responsible for the security and control of arrest warrants.
4. The Communications Section will have warrants and summonses available to officers 24 hours. (74.1.3f)

C. Arrest Warrants

1. Receiving and Recording Arrest Warrants
 - a. The Communications Section will receive the warrant from the Commissioner's Office; then the PCO will (74.1.3.a)
 - 1) Enter the warrant into METERS/NCIC, and (74.1.3c)
 - 2) Place the warrant in the NCIC Quality Control Folder.
 - b. The Records Clerk shall: (74.1.3e)
 - 1) Email to all Department personnel a Form 175 Warrant Notification that contains the following information:
 - a) Date; (74.1.1a)
 - b) Time Received; (74.1.1a)
 - c) Name of Subject;
 - d) Description & Gender of Subject;
 - e) Date of Birth;
 - f) Charge(s);
 - g) Last Known Address;
 - h) Caution Codes, if any;
 - i) Warrant Number;
 - j) Incident Report Number;
 - k) Comments; and
 - l) Applying Officer.
 - 2) Review the METERS/NCIC process for quality control; and
 - 3) Place the warrant in the Active Warrant File, in the Communications Section, where the warrant will remain until served or purged by NCIC.
2. Arrest Warrant Assignment (74.1.1f)
 - a. The officer who locates the defendant will serve the warrant as soon as possible.



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Chapter 28 Criminal Procedures
Section 07 Warrants and Summonses

GO 18-064, 07/25/2018
Supersedes GO 16-009

- b. Arrest warrants (misdemeanor and felony) will be served by sworn officers only. (74.3.2)
- 3. The PCO will remove the warrant from METERS/NCIC after the warrant is executed and the wanted person is in custody. (74.1.3f)
- 4. Arrest Warrant Tracking (74.1.2)
 - a. The Records Clerk will receive yearly NCIC validation notices of unserved arrest warrants, verify the unserved warrants, and update any records.

D. Arrest Warrants Received from Other Jurisdictions will be forwarded directly to Patrol.
(74.1.3b)

- 1. Police Officers may assist agencies from other jurisdictions by:
 - a. Locating the subject in APD service area;
 - b. Assisting the outside agency with executing the warrant; and/or
 - c. Taking the subject into custody until the outside agency arrives to serve the warrant.

E. Criminal Summonses

- 1. Receiving and Recording Criminal Summonses
 - a. The Records Section will receive the summonses from the Commissioner's Office, then the Records clerk will
 - 1) Log the Summons into the Summons Received Log, (74.1.3c)
 - 2) Attach to the Summons a Form 63 Summons Progress Report Form containing the following information:
 - a) Name;
 - b) Date & Time Received; (74.1.1a)
 - c) Summons Number;
 - d) Summons Return Date; and
 - e) Attempted Service log.
 - 3) Place the Summons in Roll Call.
- 2. Criminal Summons Assignment (74.1.1f)
 - a. The officer who locates the defendant will serve the summons as soon as possible.
 - 1) If the defendant is not available upon attempt to serve the summons, the officer will
 - a) Record the attempted service on the Summons Received Log, appropriately, and
 - b) Place the Summons back in Roll Call.
 - b. After the summons is served, the officer will
 - 1) Record the execution on the Summons Progress Report, and
 - 2) Return the Summons Progress Report and remaining documents to the Records Section.



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Chapter 28 Criminal Procedures
Section 07 Warrants and Summonses

GO 18-064, 07/25/2018
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3. Criminal Summons Tracking (74.1.2)

- a. The Records Clerk will return the summons to the Commissioner's Office if the summons expires before it has been served.

F. Wanted/Warrants Record Search (74.1.3d)

1. Aberdeen Warrants

- a. Officers may request a warrant check through METERS/NCIC.
- b. If a "hit" is indicated, the PCO will pull the printed warrant from the warrant files.

2. Other Jurisdictions

- a. Officers will request a warrant check through METERS/NCIC.
- b. The PCO will request a "hit" confirmation to the other agency through METERS/NCIC.
- c. When the "hit" is indicated, the PCO will inform the arresting officer.

G. Detainers

- 1. When a wanted person is in custody of an outside agency and an APD warrant is on file,
 - a. The PCO will send a teletype to the outside agency, to confirm the warrant.
 - b. The officer will request through the Court Commissioner to the State's Attorney, that a detainer be prepared and sent to the outside agency.
 - c. The supervisor will immediately notify CID Lieutenant of the detainer request.
 - d. The supervisor will make arrangements with the outside agency to have the warrant served on the wanted person, if the warrant is extraditable.
- 2. In Harford County, the APD officer will bring the wanted person to APD temporary detention (booking).

H. Search Warrants Procedures (74.3.1)

- 1. A search warrant is be valid for a period of fifteen (15) days from the date issued and will be returned to the issuing judge with a property inventory within ten (10) days of service.
- 2. The officer will submit the application/affidavit to the supervisor for review before delivering the application to a judge of the Circuit Court or District Court of the State of Maryland for issuance.
- 3. The supervisor will review the application/affidavit for substance and content to substantiate the issuance of the search warrant.
- 4. After the affidavit is unsealed, it must be delivered within fifteen days to the person from whom the property was taken or to the person apparently in charge of the premises from which the property was taken.
- 5. The search warrant will be executed by any authorized officer to whom it was issued unless the warrant specifies it is to be served by the applicant or other individual.
- 6. The use of good judgment in executing a warrant is as important as that used in obtaining one.



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7. The following procedures may be used when executing the warrant:
 - a. Serve the warrant within fifteen (15) days of its issuance.
 - b. The breaking of doors in execution of a search warrant is commensurate with those procedures established for the breaking of a door in execution of an arrest.
(see Ch 28.05 Search and Seizure)
 - c. The search warrant will be read to the person in charge of the premises being searched, if such a person is present at the time of service.
 - d. The search will include the place specified in the warrant, including all places reasonably and logically a part of that building, and everything therein where the lawfully sought articles might be concealed.
 - e. Only the time necessary under the circumstances may be used to conduct the search.
 - f. The officer may seize only those items particularly described in the warrant and any other instrumentalities, fruits or contraband while properly searching for the things particularly described
 - g. A search warrant alone does not constitute authority for an arrest, but an arrest may be made on probable cause developed during execution of the search warrant.
 - h. A search warrant for a residence or other premises does not permit a search of all the persons present during the search.
 - i. If probable cause is developed during the legal search to believe persons on the premises possess items which reasonably could be objects of the search, they may be detained until the proper search warrant is obtained.
 - j. Regardless of the circumstances of the search, reasonable suspicion may justify the frisk of all persons present for offensive weapons.
 - k. An inventory shall be completed containing an accurate description of all property removed and the location from where it was removed.
 - l. All copies of inventory sheets shall be signed by the officer executing the search and seizure warrant in the presence of the person from whom property was taken.
 - m. A copy of the warrant, affidavit, property inventory and return form will be left with the person in charge of the location searched.
 - 1) If no one is present to accept the paperwork, it will be left in a conspicuous location where it is reasonably protected from loss or damage.
 - n. Return the executed warrant and property inventory to the issuing judge within ten (10) days of execution.
 - 1) All items taken into custody will be handled and processed as provided for elsewhere in the manual.
8. Search warrants may be necessary to obtain evidence from a person, i.e. clothing worn, fingernail clippings, hair, body fluids, body cavity searches, etc. The following guidelines will be followed:
 - a. If an officer has adequate advance information that a person has or will have on his person items subject to lawful seizure, then the officer should get a search warrant.



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- 1) An officer should not rely upon the person's consent as the authorization for the search.
- b. If a suspect or witness is asked to provide examples for comparison and he refuses, application may be made to a Court of Competent Jurisdiction for a search warrant requiring the production of the desired evidence.
- c. If a person refuses to permit an authorized search, or if there is good reason not to search in public (a strip search, for example), an officer may use reasonable force to detain the person, or to take the person to a place where the search can be appropriately conducted.
- d. To execute a search warrant for the search of a person, premises may be entered under the same circumstances and in the same manner as allowed in the execution of an arrest warrant, and reasonable force may be used to make the search.
- e. While a search may be made only for those things described in the warrant, if, while making such a search, an officer comes upon some other evidence of this or any other crime, it may be seized.
 - 1) If a weapon is carried in violation of the law the officer may take it.
 - 2) If a weapon is carried legally an officer may still take it to protect himself but the person searched must be told where he can get it back.

9. Generally, when there is sufficient time and no opportunity to tamper with, remove, destroy, conceal, etc. property/evidence, a search warrant should be obtained.



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Chapter 28 Criminal Procedures
Section 08 Arrest Records

GO 17-021, 11/01/2017
Supersedes GO 15-087

A. Policy

1. Officers shall complete the Prisoner or Juvenile Arrest Record when an individual, adult or juvenile, is taken into custody—whether arrested or detained—in the Booking Area.

B. Procedure (1.2.5a)

1. The arresting officer shall complete a Prisoner Arrest Record as soon as possible for every person arrested or detained in the booking area.
2. The arresting officer shall complete a Prisoner or Juvenile Arrest Record even if the person detained is not placed in a Temporary Detention cell.
3. The officer shall complete the Prisoner Arrest Record for all adult prisoners placed in a detention cell.
4. The officers shall complete the Juvenile Arrest Record for all juveniles placed in a detention cell.
5. The arresting officer will fill in all the spaces including but not limited to: (71.3.1a)
 - a. Reason; and
 - b. Date and times in and out of the Booking Area.
6. Officers shall not use “white-out” on the Prisoner Arrest Record.

C. Responsibilities

1. Officers shall be responsible to ensure:
 - a. that the arrest information matches the information in district court case folders, circuit court dockets, and subsequent dispositions; and
 - b. that all Department arrest and detention documents are complete and accurate.
2. Patrol Supervisors will examine the Arrest Records at the end of each tour of duty to ensure that they are complete.
3. The Administrative Supervisor will complete a semi-annual tabulation of juvenile detention information and submit the information to the Juvenile Justice Advisory Council.

D. Storage

1. Prisoner and Juvenile Arrest Records shall be maintained with Incident Reports and case files.



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Chapter 28 Criminal Procedures
Section 09 Polygraph

GO 14-077, 09/03/2014
Supersedes None

A. Policy

1. Polygraph examinations are conducted for Department:
 - a. Job candidates, including volunteers;
 - b. Criminal (42.2.5); and
 - c. Internal administrative investigations.
2. The polygraph is only an aid and cannot be substituted for thorough criminal investigations designed to secure competent evidence to prove or disprove a criminal offense.
3. Polygraph examination results are confidential and are available only to the investigating officer, the person tested or his designated representative.

B. Examiner Requirements

1. The Examiner (Polygrapher) is a graduate of an institution that provided training to operate the polygraph (32.2.5) (42.2.5)
2. The Examiner will be responsible for all phases of the testing to include pre-test questioning, actual testing, calibration, preparation and forwarding of test results, and testifying in court, unless there are exigent circumstances.

C. Pre-Employment, Reinstatement, or Rehiring Examination

1. The hiring lieutenant or designee will notify the Department Examiner to conduct a pre-employment examination.
2. The Examiner may be given a test date, or may select a test date and time.
3. The Administrative Lieutenant is responsible to have the applicant notified.
4. The hiring lieutenant or designee will, prior to the test date, brief the Examiner to provide sufficient established facts to aid in developing test questions.
5. The Examiner will conduct the polygraph examination and submit the results to the hiring lieutenant or designee.

D. Criminal Examination (42.2.5)

1. The investigating officer will notify the Department Examiner when a polygraph examination has been agreed upon by the subject.
2. The investigating officer will, prior to the test date, brief the Examiner to provide sufficient established facts to aid in developing test questions.
3. The Examiner will be given any necessary case files, background investigations, etc., to review before a criminal examination is scheduled.
4. The Examiner will notify the examinee and arrange the test date, time, and location.
5. The Examiner may terminate the examination at any time.
6. The Examiner will discuss the case with the investigating officer and the officer will give the Examiner the case file.
7. After reviewing the case file, the Examiner will make the decision whether an examination should be conducted.



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GO 14-077, 09/03/2014
Supersedes None

8. The requesting officer should advise the Examiner of any additional facts developed since the initial briefing.
9. The Examiner and investigating officer will determine a time frame for the examination.
10. The Examiner will contact the subject to set a date, time, and place for the exam.
11. The Examiner will submit the results of the examination to the investigating officer.

E. Internal Administrative Examination

1. The investigating officer will notify the Examiner when a polygraph has been ordered for an employee.
2. The Examiner may direct the investigating officer to another Examiner to conduct the polygraph.
3. The Department Examiner or outside Examiner will conduct the examination and submit results appropriately.
4. The officer's representative need not be present during the actual administration of a polygraph examination by a certified polygraph Examiner
 - a. If the questions to be asked are reviewed with the officer or his/her representative prior to the administration of the examination, the representative is allowed to observe the administration of the polygraph examination, and
 - b. If a copy of the final report of the examination by the Examiner is made available to the officer or his/her representative within a reasonable time, not to exceed ten days after the completion of the examination.
5. All post-examination interrogations of Department personnel ordered to submit to the polygraph examination may be conducted by someone other than the Examiner, without the Examiner present, outside the polygraph environment.



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Chapter 28 Criminal Procedures
Section 10 Criminal Citations for Qualifying Offenses

GO 16-127, 12/07/2016
Supersedes GO 13-030

A. Summary (1.2.6)

1. In Lieu of Arrest
 - a. The officer **may** issue a Uniform Criminal Citation and release the defendant, without approval by a court commissioner, after he signs the citation, if
 - 1) If there are grounds to arrest a defendant for a qualifying offense, and
 - 2) The defendant meets the criteria for issuance of a citation, described in this policy.
2. If the defendant does not meet the criteria in this policy, the officer will charge the defendant on a statement of charges and ensure the defendant's appearance before a court commissioner. The officer must state in the probable cause statement which criteria the defendant failed to meet.

B. Criteria for Issuance of Citation (1.2.6)

1. The officer is required to charge a defendant on a citation only if:
 - a. The officer is satisfied with the defendant's evidence of identity;
 - b. The officer reasonably believes that the defendant will comply with the citation;
 - c. The officer reasonably believes that the failure to charge on a statement of charges will not pose a threat to public safety;
 - d. The defendant is not subject to arrest for another criminal charge arising out the same incident; and
 - e. The defendant complies with all lawful orders by the officer.

C. Qualifying Offenses (1.2.6)

1. Any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment;
2. Any misdemeanor or local ordinance violation for which the maximum penalty of imprisonment is 90 days or less; and
3. Possession of marijuana under Criminal Law Article §5-601.
4. See *Sentencing Guidelines Offense Table (Updated 11/1/16)* placed on the P: Drive.

D. Exceptions (1.2.6)

1. Failure to comply with a peace order under Courts Article §3-1508;
2. Failure to comply with a protective order under Family Law Article §4-509;
3. Violation of a condition of pretrial or post-trial release while charged with a sexual crime against a minor under Criminal Procedure Article §5-213.1;
4. Possession of an electronic control device after conviction of a drug felony or crime of violence under Criminal Law Article §4-109(b);
5. Violation of an out-of-state domestic violence order under Family Law Article §4-508.1; and
6. Abuse or neglect of an animal under Criminal Law Article §10-604.

E. After Arrest (1.2.6)



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Chapter 28 Criminal Procedures

GO 16-127, 12/07/2016

Section 10 Criminal Citations for Qualifying Offenses

Supersedes GO 13-030

1. Following an arrest, the defendant will be transported to the station where he/she will be
~~a.~~ Searched incident to arrest
2. Then, if the defendant meets the criteria, the officer will issue a Uniform Criminal Citation and release the defendant after the defendant signs the citation.

F. Forms, Reports, and Instructions

1. Uniform Criminal Citation Form DC/CR 45
 - a. Use the pre-printed/pre-numbered citation from the citation book provided by the District Court
 - 1) Request book from the Quartermaster; or
 - b. Use the PDF format citation, using the citation number on the paper citation.
 - 1) Write “VOID” across the paper citation and staple it to the hard copy PDF form.
 - c. Do not write the probable cause statement on this form; use DC/CR 4A.
 - d. Do not write in the names and addresses of the Victims and Witnesses
 - e. Enter Race *or* Ethnicity, NOT both, on the citation.
2. Probable Cause Continuation Sheet Form DC/CR 4A
 - a. Write the probable cause statement on this form.
 - b. Complete the probable cause narrative with the facts and circumstances substantiating the charge.
 - c. Write the citation number in the case number block on this sheet.
3. Statement of Charges Form DC/CR 2
 - a. Complete this form if the defendant does not meet all the criteria for a qualifying offense.
 - b. Write a statement, at the end of the statement of probable cause, explaining why the defendant went before the commissioner instead of being released on citation.
4. Criminal Investigation Report
 - a. Write, in detail, the circumstances of the incident.
 - b. List the names and addresses of the Victims and Witnesses
5. APD Prisoner Arrest and Release Form

G. Report Distribution

1. Defendant
 - a. Uniform Criminal Citation
 - b. Probable Cause Continuation Sheet(s) DC/CR 4A
2. State’s Attorney’s Office, through chain-of-command
 - a. Uniform Criminal Citation
 - b. Probable Cause Continuation Sheet(s) DC/CR 4A
 - c. Criminal Investigation Report



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H. Law Enforcement Reporting of Statistical Data Collection

1. Required Data Collection
 - a. Citation Number
 - b. Race or Ethnicity
 - 1) Asian;
 - 2) Black;
 - 3) Hispanic;
 - 4) White; or
 - 5) Other.
2. Delta+ will include a race-based reporting module for criminal citations.



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Chapter 28 Criminal Procedures

GO 21-021, 7/30/2021

Section 11 Prisoner Transport and Temporary Detention (Booking)

Supersedes GO 19-017

A. Policy

1. Officers are responsible for the safety and welfare of persons in their custody and control and shall take reasonable precautions to protect the rights, safety, and well-being of prisoners/detainees during their transport and temporary detention.

B. Transportation of Prisoners

1. The transporting officer shall complete Form 0160 – Detainee Transport to Outside Agency Checklist whenever an Aberdeen police officer transports the prisoner to an outside agency or facility.
 - a. The form shall be maintained with the Incident Report.
2. Completing the Form 0160 – Detainee Transport to Outside Agency Checklist
 - a. The officer shall fill out the form completely; check all the boxes, appropriately; provide explanations where required; and secure signatures.
 - 1) List all documents or describe the methods used to identify the detainee.
 - 2) List all documents that accompanied the prisoner and check the appropriate boxes if the documents were or were not given to the receiving personnel.
 - 3) Transport Operations – Check the appropriate boxes “Yes” or “No”, and provide explanations, wherever a “Yes” box is checked.
 - 4) Transfer of Custody – Obtain signature from receiving personnel.
 - 5) Signature of Transporting Officer – Sign and date the completed form.
3. Search of Prisoner and Vehicle
 - a. The transporting officer shall search the prisoner before transporting the prisoner. (70.1.1)
 - b. Officers shall, prior to the beginning of each shift, examine all vehicles used for transporting prisoners and shall search the vehicles prior to and after transporting prisoners. (70.1.2)
4. Prisoner Restraints During Transport
 - a. Officers in a patrol car equipped with a prisoner cage shall ensure the prisoner is properly restrained and seat belted, and situated in the caged area of the patrol car unless circumstances are such that seat belting is clearly not practicable. (70.1.3)
 - b. Physically resistive or multiple prisoners should be transported only in vehicles equipped with a security screen.
 - 1) Officers shall seat belt prisoners, unless circumstances are such that seat belting is clearly not practicable.
 - c. Officers in a vehicle not equipped with a prisoner cage shall ensure that the prisoner is properly restrained, and seat belted in the right rear passenger seat. (70.1.3)
 - d. All individuals in custody shall be restrained through the use of handcuffs or flex-cuffs secured to the rear, except under the following circumstances: (70.2.1)
 - 1) When precluded by physical deformity or injury;



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- 2) During a lengthy transport, such as across the state or through multiple jurisdictions;
 - 3) When prohibited by court order; or
 - 4) When the arresting officer determines that handcuffing to the rear would be detrimental to the exchange of information deemed necessary by the officer.
5. Transport of Female Prisoners
 - a. Whenever possible, female prisoners who are in the custody of a male officer should be accompanied by two officers when transported by patrol car.
 - b. In all cases the female's name, time commencing the journey, odometer reading, location and destination must be reported by radio.
 - c. Upon arrival at the destination, the time and odometer reading shall again be recorded on a CAD entry.
6. Transport of Sick, Injured or Disabled Prisoners (70.3.1)
 - a. Disabled or Handicapped Prisoners
 - 1) Officers may determine that some handicapped prisoners may not require, or have limitations to, the common use of restraining devices.
 - 2) If such prisoners pose a threat to the transporting officer, others, or himself/herself, the officer shall restrain the prisoner in an appropriate manner and ask for assistance from other officers as needed.
 - b. Sick, Injured, Unconscious Prisoners
 - 1) Officers who have custody of prisoners who suffer from obvious or claimed injury or illness shall:
 - a) Rely on previous medical training to assess the extent of injuries or illness;
 - b) Have persons who appear to be seriously injured, sick, or unconscious transported by ambulance; and
 - c) If the prisoner's injuries do not appear to be serious but require medical attention:
 - i. Where appropriate, summon ambulance personnel; and
 - ii. Obtain a medical release/refusal from the prisoner where practicable. If a prisoner is unable or unwilling to provide a medical release/refusal the officer shall document in writing the circumstances of the officer's efforts to obtain the release/refusal.
 - c. Mentally Disturbed Persons
 - 1) Transporting officers may need to use ankle restraints or safety-belt, behind the protective barrier.
7. Special Situation Transports (70.3.3)
 - a. Transporting prisoners to hospital visits, funerals, to/from airports, or other situations will be the responsibility of outside agencies.



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- b. APD shall not transport prisoners to special situations.

8. Prisoner Identification and Documentation

- a. Prior to transporting any prisoner to another location, the transporting officer shall attempt to positively identify the prisoner: (70.5.1a)
 - 1) By asking the prisoner his/her name; and
 - 2) By verifying the prisoner's identity with arrest records, driver's license, photographs, or physical descriptions.

9. Travel Documentation

- a. The transporting officer shall carry required documentation with the prisoner who will be transported from APD to an outside agency/facility. (70.5.1b)
- b. The transporting officer shall deliver to the outside agency/facility the appropriate documentation required or requested by that agency/facility. (70.1.6c)
- c. The transporting officer shall notify the receiving agency of potential medical or security risks, if any, and shall carry such documentation to give to the receiving agency/facility. (70.1.6d) (70.1.8) (70.5.1c)
- d. The transporting officer is responsible for ensuring that all the necessary documentation is properly exchanged confirming transfer of custody and for obtaining the signature of the receiving officer or official. (70.1.6e)

- 10. The transporting officer shall not interrupt a prisoner transport for stops and/or to provide emergency assistance without authorization from the supervisor. (70.1.4)

- 11. Officers shall ensure that the prisoner speaks to no one other than the transporting officer while in transit. (70.1.5)

12. Procedures at the Destination

- a. Upon arrival at the destination court or holding facility, the transporting officer shall secure his/her firearms in a lockbox or other Department-approved secured storage container prior to entering the facility. (70.1.6a)
- b. Restraining devices shall be removed from the prisoner: (70.1.6b)
 - 1) After the officer's firearms are secure;
 - 2) After the prisoner has been searched for weapons and contraband; and
 - 3) Just prior to placing the prisoner in the cell.

C. Hospitalization of Prisoners

- 1. During hospitalization of a prisoner, the arresting officer shall coordinate a disposition of the prisoner with the State's Attorney's Office, District Court Commissioner, and the Harford County Sheriff's Department. (70.3.2)
- 2. In extreme cases, an officer may accompany a violent prisoner to the hospital and remain with the prisoner to protect hospital staff.
- 3. If medical personnel request the removal of restraining devices for necessary treatment procedures, the officer may remove the restraints if medical personnel are not in danger of being harmed by the prisoner.



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D. Care of Prisoners

1. Whenever an officer makes an arrest, or at any time has a prisoner in custody but not confined in a cell, the officer shall guard the prisoner closely, using the utmost precaution to prevent such prisoner from escaping or from injuring anyone in such an attempt.
2. Officers shall not converse unnecessarily with prisoners and shall not address them in obscene or profane language.
3. Officers shall not mistreat prisoners or use unnecessary force in handling prisoners.
4. Officers shall make every effort to transport a prisoner to the IPC/Detention Center as expeditiously as possible.
 - a. If a prisoner is held 5 full hours or longer, the officer shall arrange to provide a low-cost meal to the prisoner at the beginning of the 6th hour. (71.3.1a)
 - b. The supervisor shall ensure that a prisoner meal receipt, attached to a Form 37, is forwarded to the Administrative Lieutenant for appropriate reimbursement.
5. Sick or injured prisoners in Temporary Detention
 - a. When a prisoner appears to be sick or injured, the arresting officer shall arrange for appropriate medical treatment.
 - b. An unconscious prisoner shall not be placed or allowed to remain in a cell without medical treatment and close observation, even though the prisoner's condition may have been caused by intoxicants.
6. Transport after APD Temporary Detention
 - a. The prisoner shall be promptly transported to the Interagency Processing Center (IPC) upon completion of required Temporary Detention paperwork.
 - 1) The only justified delays in transportation are:
 - a) The unavailability of a Commissioner;
 - b) Any medical needs of the prisoner; or
 - c) A need to have the officer respond to an in-progress emergency calls for service.
 - b. The shift supervisor shall be held accountable for ensuring that prisoners are transported to a District Court Commissioner without undue delay.
7. The Shift Sergeant shall inspect all arrest paperwork before accepting transport responsibility from another shift.
 - a. The arresting officer shall not be relieved of transport responsibility until completed paperwork is supplied to the relieving supervisor.

E. Prisoner Escape in Transit

1. If a prisoner escapes, the arresting or transporting officer shall:
 - a. Notify: (70.1.7a)
 - 1) The Communications Section and request assistance; and
 - 2) The officer's supervisor;



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- b. Make every reasonable attempt to recapture the escaped prisoner; and
 - c. Document on an incident report the details of the escape. (70.1.7b)
- 2. PCO Responsibilities
 - a. The PCO shall be responsible for broadcasting the escape, including the following information provided by the transporting officer:
 - 1) Name and complete description of the prisoner;
 - 2) Location of the escape;
 - 3) Date/Time of the escape;
 - 4) The offense for which the prisoner was originally in police custody;
 - 5) Name and vehicle number of the transporting officer; and
 - 6) Whether the suspect is armed.
 - b. The PCO shall issue a regional teletype and notify the local authorities.
- 3. Further Action (70.1.7c)
 - a. The shift supervisor shall be responsible for planning, supervising, organizing, and notifying command staff.
 - b. The shift supervisor shall be responsible for initiating an administrative investigation regarding the escape.
- 4. If unsuccessful in recapturing the escapee, the transporting officer is responsible for
 - a. All reports;
 - b. Obtaining an arrest warrant; and
 - c. Advising the Communications Section to enter the escapee into METERS/NCIC.

F. Conditions of Temporary Detention

- 1. Arresting officers shall place arrested or detained persons in the Temporary Detention area under these instances:
 - a. The person is arrested in Aberdeen on charges pending in another jurisdiction, and it is not immediately possible or convenient to transport the prisoner to the jurisdiction where such charges are pending;
 - b. The person is detained for questioning or investigation; or
 - c. The person is arrested without a warrant.

G. Duration of Detention

- 1. Officers shall detain a person only for the period of time it takes to complete the paperwork necessary to have a prisoner appear before a commissioner, transferred to another facility, or for interrogation.
- 2. Officers shall not detain a person for the sake of convenience, such as to give a police officer time to complete ancillary paperwork not associated with necessary charging documents and immediate processing.



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H. Prisoner Escape Prevention (71.3.3d) (71.5.1d)

1. Officers shall take necessary steps to prevent the escape of an arrestee while in the Temporary Detention area, including but not limited to:
 - a. Maintaining close observation of an arrestee when moving into the Temporary Detention area from the sally port area or other unsecured area of the police station;
 - b. Ensuring doors from the Temporary Detention to the sally port area and the doors to the first floor corridor are secured after passing through the doors;
 - c. Requesting assistance from other officers for high risk arrestees;
 - d. Ensuring the cell doors are secured after placing an arrestee inside a cell; and
 - e. Maintaining security and control of the keys to the temporary detention cells.

I. Temporary Detention Procedures

1. Prisoners are to be made as comfortable as practical.
 - a. When the prisoner may pose a danger to himself/herself, to the officer or to others, a second unarmed sworn officer may accompany the arresting officer to the Temporary Detention area, and remain outside the cell, but in full view of the cell.
2. Processing Prisoners
 - a. The arresting officer is responsible for processing, searching, and placing the prisoner in the temporary detention cell. (71.3.1b)
 - b. The arresting officer shall suspend all other non-emergency patrol duties until the officer has processed the prisoner and completed the appropriate paperwork.
 - c. Arresting officers shall secure their weapons before entering the Temporary Detention area. (71.3.3a) (71.5.1b)
 - d. The arresting officer shall search the Temporary Detention cell and the prisoner before placing a prisoner in a Temporary Detention cell.
 - 1) The arresting officer shall remove belts, shoe laces, drawstrings, etc., or any other items that could reasonably be used by the prisoner to cause harm to himself/herself or others.
 - e. The arresting officer may restrain a prisoner during processing, by securing the prisoner to a bar, only if the prisoner is a security risk or is actively a danger to himself/herself and others. (71.3.1d) (71.3.2)
 - f. The arresting officers will confine no more than one prisoner in a cell or detention room at one time, when there are enough designated unoccupied cells.
3. Separation of Male and Female Prisoners (71.3.1e)
 - a. Officers shall place female and male prisoners in separate cells so that the prisoners cannot see into each other's cells.
4. Juvenile Prisoners (71.3.1e)
 - a. Officers shall notify the Communications Section that a juvenile prisoner is being transported to headquarters.



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- b. The Police Communication Officer (PCO) shall notify the Shift Sergeant, who shall ensure that officers have placed any adult prisoners out of sight and sound of the juvenile the entire time the juvenile prisoner is in the facility for processing and detention.
- 5. Monitoring Prisoners (71.3.1c),
 - a. Officers shall constantly supervise prisoners when they are not contained in a detention cell. (71.3.3e)
 - b. Designated employees shall: (71.3.3f)
 - 1) Visually observe all prisoners face-to-face at least every 30 minutes; and
 - 2) Document every observation on Form 200—Face-to-Face Observation Log, noting:
 - a) Name of Prisoner, Arresting Officer, IR#, Cell #;
 - b) Date and time of observation;
 - c) Name & ID# of Observer;
 - d) Number hours prisoner has been in temporary detention;
 - e) Comments, if any; and
 - f) At 6 hours, meal provided to prisoner.
 - c. Police Communications Officers shall: (71.3.3g)
 - 1) Visually observe all prisoners closed circuit TV (CCTV) at least every 30 minutes, in between face-to-face observations.
 - 2) Document every video observation on Form 163—Prisoner Observation Log, noting:
 - a) Name of Prisoner, Arresting Officer, IR#, Cell#;
 - b) Date and time of observation;
 - c) Name and ID# of PCO;
 - d) Number of hours prisoner has been in Temporary Detention;
 - e) Cell Number;
 - f) Comments, if any; and
 - g) At 6 hours, verify that meal was provided to prisoner.
- 6. Monitoring Prisoners when Video Surveillance is Not Available (71.3.1c) (71.3.3e)
 - a. Officers shall visually observe all prisoners face-to-face every 30 minutes to ensure their well-being.
 - b. Officers shall document all face-to-face visual observations on Form 200—Face-to-Face Observation Log.



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7. Monitoring Prisoners who are Security Risks (71.3.1c)
 - a. Officers or designated persons shall:
 - 1) Visually observe prisoners at least every 15 minutes face-to-face, to check for signs of life;
 - 2) Document that the prisoner is a Security Risk on Form 163—Prisoner Observation Log; and
 - 3) Document every observation, including comments about the prisoner's behavior.

J. Temporary Detention Facility Security and Control

1. Panic or Duress (71.3.3b) (71.5.1c)
 - a. Arresting officers shall notify the Supervisor and the PCO if the arrestee is a security risk.
 - b. Officers who hear the communication about the security risk prisoner shall be on alert to provide assistance.
 - c. PCO's shall be on alert to call for assistance when arresting officers are processing prisoners who are security risks.
 - d. Officers shall use Signal 13 in case of distress or emergency in the Temporary Detention processing area or in the cells.
2. Officers are responsible to ensure that Temporary Detention cell area entry doors are secured at all times. (71.3.3d) (71.5.1d)
 - a. Cell doors and cell area entry doors cannot be opened from the inside without a key.
3. Authorized Access to Temporary Detention (71.3.3c)
 - a. Arresting officers or designees, only, are authorized to have contact with detainees.
 - b. Persons from outside agencies and other persons who want to visit are not permitted to enter the Temporary Detention area without approval from the Chief of Police.
 - 1) Visitors shall be escorted by an officer.
 - 2) Officers shall document on the incident report and Docket Card the visitor's name, time, and prisoner visited.
 - c. Non-sworn persons are not permitted to enter the Temporary Detention area without approval from the Chief of Police.
4. Fire Prevention (71.4.2)
 - a. Smoking is not allowed in the building, including the temporary detention processing area and cells.
 - b. All employees shall ensure that necessary steps are taken to prevent fires
 - c. Officers shall remove from detainees lighters, matches, or any items that can be used to start a fire.



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5. Inspections of Temporary Detention Area
 - a. Prior to any prisoner being removed from the detention cells, the releasing officer shall inspect the cells for damage by the prisoner, and for items that may have been secreted by the prisoner. (71.4.3)
 - 1) The releasing officer shall notify the supervisor of any damage repair or cleaning that is needed.
 - b. The shift supervisor shall conduct, and shall document on the Supervisor's Daily Activities sheet, inspections of all Temporary Detention cells at the beginning and at the end of the shift, to ensure that: (71.4.3)
 - 1) Property has not been left unattended;
 - 2) Evidence has not been left unsecured;
 - 3) Cells clean and no damage;
 - 4) Toilets flushed; and
 - 5) The area is secure.
 - c. The shift supervisor shall inspect the first-aid supplies at least once a week.
 - 1) The shift supervisor is responsible to have supplies used from the Department first-aid kit replaced immediately.
6. Annual Administrative Review of Temporary Detention Policies and Procedures (71.4.3)
 - a. The Administrative Lieutenant shall conduct an annual administrative review of policies and practices to ensure that they are being followed and that the original intent for authorization and use of the temporary detention facility is adequate for the Department's needs.
 - b. The Administrative Commander shall submit the review with any suggestions or recommendations to the Chief of Police through the chain of command.
7. Emergency Evacuations
 - a. In the event of a fire or situation requiring a facility to be vacated, the shift supervisor:
 - 1) Shall ensure that all prisoners are moved to a hazard free area; and
 - 2) Shall keep prisoners safe and secure.
 - b. All assigned personnel shall be familiar with the building exits.
8. Medical Attention
 - a. The shift supervisor shall arrange for medical treatment of prisoners as needed.

K. Training

1. Sworn officers shall be provided initial training on this policy and the use of the temporary detention rooms; and shall be provided retraining at least once every four years. (71.2.1)
2. All officers shall undergo Fire Extinguisher Training through PowerDMS. (71.4.2)
3. All training and retraining shall be documented.



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Chapter 28 Criminal Procedures
Section 12 Naloxone Program

GO 16-006, 05/02/2016
Supersedes GO 16-002

A. Policy

1. Trained Department officers will administer naloxone to treat subjects of opioid overdoses and to minimize the effects of an overdose caused by opioids.

B. Definitions

1. Opioid – Any drug containing opium, natural or synthetic. Prescription medications or illegal drugs which can be in pill, capsule, powder or liquid form. The opioid maybe swallowed, smoked, snorted or injected.
2. Naloxone (Narcan) – drug used to reverse opioid overdoses.

C. Storage and Maintenance

1. Officers shall keep the Naloxone Kit fully stocked and shall store the Kit in the medical bags in their Department vehicles.
2. Officers shall notify the supervisor, on a Form 37, when the Naloxone has been depleted or has expired.
3. The Supervisor shall forward the form to the Patrol Lieutenant.
4. The Patrol Lieutenant will submit the form to the Administrative Lieutenant.
5. The Administrative Lieutenant is responsible to:
 - a. Collect expired or empty medication cartridges; and
 - b. Distribute new medication to certified officers.

D. Arriving at the Scene

1. Ensure the scene is safe;
2. Assess the situation.;
3. Confirm that EMS has been notified;
4. Render first aid;
5. Administer the Naloxone; and
6. Advise EMS personnel that Naloxone has been administered.

E. Documentation and Reporting

1. The officer shall document the use of Naloxone on an Incident Report, detailing:
 - a. The reason the officer used Naloxone;
 - b. The circumstances surrounding the officer's use of Naloxone; and
 - c. The care the subject received by the officer.
2. The officer shall:
 - a. Complete the Division of Behavioral Health/Addiction Services Naloxone Training and Certification Program After Action Report; and
 - b. Submit the After Action Report to the Patrol Lieutenant.
3. The Patrol Lieutenant or designee shall submit a copy of the After Action Report to the Harford County Health Department.



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GO 16-006, 05/02/2016
Supersedes GO 16-002

F. Training

1. Patrol Officers shall receive initial training in the use of nasal Naloxone by the Harford County Health Department or designee.
2. Certified officers shall undergo refresher training every two years, 90 days prior to certificate expiration.
3. The Training Coordinator shall monitor and maintain training certifications, and shall notify Officers about required refresher training.



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Chapter 28 Criminal Procedures
Section 13 Extreme Risk Protective Orders

GO 18-085, 11-09-2018
Supersedes None

A. Policy

1. The Department uses Extreme Risk Protective Orders (ERPO) as a means of protecting citizens.

B. Definitions

1. Extreme Risk Protective Order (ERPO) – a civil Interim, Temporary, or Final Protective Order prohibiting the Respondent from possessing and purchasing a firearm and ammunition and ordering the Respondent to surrender to law enforcement any firearm and ammunition in the Respondent's possession for the duration of the Order.
2. Ammunition—a cartridge, shell, or any other device containing explosive or incendiary material designed and intended for use in a firearm.
3. Firearm—a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or the frame or receiver of such a weapon.
 - a. Firearm includes a handgun, rifle, shotgun, and starter gun.
4. Interim ERPO—Requires the Respondent to surrender to law enforcement authorities any firearm and ammunition in the Respondents' possession; and prohibits the Respondent from purchasing or possessing any firearm or ammunition for the duration of the Interim Order.
 - a. May include a referral from the commissioner to law enforcement for a determination of whether the Respondent should be taken for an emergency mental evaluation.
5. Temporary ERPO—Requires the Respondent to surrender to law enforcement authorities any firearm and ammunition in the Respondent's possession; and prohibits the Respondent from purchasing or possessing any firearm or ammunition for the duration of the Temporary Order.
 - a. May include a referral from the District Court judge for an emergency mental evaluation of the Respondent.
6. Final ERPO—Requires the Respondent to surrender to law enforcement authorities any firearms and ammunition in the Respondent's possession; and prohibits the Respondent from purchasing or possessing any firearm or ammunition for the duration of the Order.

C. Service of ERPO Orders

1. Upon receipt of Interim, Temporary, and Final Orders:
 - a. The officer shall have initiated a computer check to determine whether the Respondent is the registered owner of a regulated firearm;
 - b. The officer shall attempt to serve the Order on the Respondent;
 - c. The officer shall make a good faith effort to secure any firearm(s) and/or ammunition in the Respondent's possession;
 - d. Officers shall make a return of service to the Clerk of the Court; and
 - e. Within 2 hours after service of the Order, the officer shall electronically notify the Department of Public Safety and Correctional Services of the service using an electronic system approved and provided by the Department of Public Safety and Correctional Services.



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D. Law Enforcement Response

1. Domestic and other types of Calls for Police Assistance
 - a. When the officer has reasonable grounds to believe that the Respondent poses an immediate and present danger of causing personal injury to himself or other persons by possessing a firearm, the officer should file an Emergency Evaluation and, in most cases, a petition for an ERPO.
 - b. When an officer is on the scene and the officer does not personally observe behavior that an individual possesses an immediate and present danger of causing personal injury to himself/herself or to other persons by possessing a firearm, but the officer is receiving information meeting the criteria stated above, the officer shall immediately make a determination whether the complainant/witness meets the definition of a petitioner:
 - 1) If the complainant/witness is an eligible petitioner, the on-scene officer shall explain to the complainant/witness what an ERPO is and the process to obtain the Interim or Temporary Order as is appropriate;
 - 2) The complainant/witness is in the best position to obtain the ERPO since the complainant/witness has the necessary background information regarding the Respondent's behavior and the specific facts that may be needed to justify the issuance of an Order;
 - c. The officer shall provide the complainant/witness with the ERPO information pamphlet which explains the process for filing of the petition and the officer shall document that the complainant/witness was given the pamphlet.
 - 1) The officer shall then determine if the complainant/witness intends to file a petition for an ERPO.
 - d. If the complainant/witness indicates that he or she will be pursuing an ERPO, the officer shall document that the complainant/witness intends to file a petition.
 - 1) The officer or another person designated by the Supervisor shall follow-up with the complainant/witness before the officer's end of tour of duty to determine whether the individual filed the petition and the officer shall document the findings.
 - (1) If the complainant/witness has not pursued the filing of the petition and the officer has a reasonable belief, based upon personal observation, that the individual poses an immediate and present danger of causing personal injury to himself/herself or to another person by possessing a firearm, the officer should file the petition and document the reason the officer filed the petition.
 - e. If the officer does not observe the behavior of the individual sufficient to warrant the issuance of an ERPO or the witness/complainant is not permitted by law to file a petition for an ERPO, the officer should determine whether it is appropriate for the officer to file the petition for the ERPO.
 - f. Officers who are investigating cases where the issuance of an ERPO may be appropriate should make a good faith effort to secure firearms and ammunition in the Respondent's possession during the original call for service.



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- g. If the ERPO is not issued or the petition is subsequently dismissed, the officer can return weapons and ammunition to the lawful owner if the individual is not barred from possessing the firearms and ammunition by a State or Federal Law.

E. Obtaining Firearms and Ammunition in the Possession of the Respondent

1. Upon serving an Interim, Temporary, or Final ERPO, officers shall make a good faith effort to secure all firearms and ammunitions in the possession of the Respondent.
2. Consent Search
 - a. When the ERPO has been issued, officers may subsequently develop information that firearms and/or ammunition are in the possession of the Respondent, the Petitioner, or other individuals.
 - b. The Petitioner or other individuals may have the legal authority to give consent to the officers and allow officers access into the home or other locations to secure any firearms and/or ammunition.
 - c. The Respondent may also have the legal authority to give officers consent to search the home or other location.
3. Search Warrant
 - a. Officers, during their investigations, may develop probable cause to apply to the court for an Order to search a specific location or locations in situations where the Respondent has failed to surrender firearms and/or ammunition.
4. Where officers have probable cause to believe that the Respondent is in possession of firearms and/or ammunition and after giving proper notice, the Respondent refuses to surrender the firearms and/or ammunition, officers shall arrest the Respondent for violating the ERPO;

F. Law Enforcement Responsibility upon Taking Possession of the Firearms and/or Ammunition

1. Officers coming into possession of firearms and/or ammunition in accordance with an ERPO shall at the time of surrender or seizure:
 - a. Issue a receipt to the Respondent identifying the make, model, and serial number of all firearms and ammunition seized or surrendered because of the ERPO;
 - b. Provide a copy of the receipt to the Respondent;
 - c. Retain a copy of the receipt for the Department's records, filed with the Incident Report;
 - d. Provide information to the Respondent on the process for retaking possession of the firearms and/or ammunition on the expiration or termination of the Order; and
 - e. Transport and store any firearms (in a protective case if available) or ammunition surrendered or seized in accordance with the ERPO.
 - 1) Storage of the firearms shall be in a manner intended to prevent damage to the firearms while the Order is in effect and officers or other personnel shall not place any mark on the firearms for identification or other purposes.



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Supersedes None

G. Court Attendance

1. Officers who apply for Interim, Temporary, or Final ERPO will be required to attend the court proceeding(s).
 - a. Where the officer is the petitioner in a Temporary ERPO hearing, the officer may have to contact witnesses ahead of the scheduled hearing and request they attend.
 - 1) Time constraints may not allow sufficient time to subpoena witnesses.
 - 2) If a Temporary ERPO is issued, the officer should make reasonable efforts to assure that witnesses in the Final Hearing are subpoenaed.

H. Law Enforcement Responsibility upon Expiration of ERPO

1. Upon the expiration or termination of an ERPO:
 - a. The Evidence & Property Custodian shall notify the Respondent that the Respondent may request the return of the firearms and/or ammunition;
 - b. Before releasing firearms and/or ammunition to the Respondent, verify that the Respondent is not otherwise prohibited from possessing firearms and/or ammunition.
 - c. On request of the Respondent who is not otherwise prohibited from possessing firearms and/or ammunition, the Evidence & Property Custodian shall return the firearms and/or ammunition to the Respondent no later than:
 - 1) 14 days after the expiration of an Interim or Temporary Order;
 - 2) 14 days after the court terminates a Final Order; or
 - 3) 48 hours after the expiration of the Final Order.
 - d. A Respondent who does not wish to recover firearms and/or ammunition or who is otherwise prohibited from possessing firearms and/or ammunition may request the Department destroy the firearms and/or ammunition, or may sell or transfer the firearms and/or ammunition to:
 - 1) A Federal Firearms Licensed Dealer.
 - a) The FFL must provide written proof that the Respondent has agreed to transfer the firearms and/or ammunition to the dealer and this Agreement must be verified with the Respondent and the verification documented in writing; or
 - 2) Another person who is not prohibited from possessing the firearms and/or ammunition under State and/or Federal Law and who does not reside in the same residence as the Respondent.
 - a) The person must provide written proof that the Respondent has agreed to transfer the firearms and/or ammunition to the person and the Agreement must be verified with the Respondent and the verification documented in writing.
 - b) Request the Department destroy the firearms and/or ammunition.
 - e. If an individual other than the Respondent claims ownership of a firearm and/or ammunition surrendered or seized because of an ERPO, the Evidence & Property Custodian shall release the firearm and/or ammunition to the individual only if:



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1)
2)
f.

The individual provides proof of ownership of the firearm and/or ammunition;
and
The Evidence & Property Custodian determines the individual is not otherwise prohibited from possessing the firearm and/or ammunition.
If a firearm and/or ammunition are not reclaimed within 6 months after the notice to a Respondent, no party shall have the right to assert ownership of the firearm or ammunition and the Evidence & Property Custodian may destroy the firearm and/or the ammunition.

I. Violations of an ERPO

1.

Officers shall arrest with or without an arrest warrant any person whom the officer has probable cause to believe is in violation of an Interim, Temporary, or Final ERPO in effect at the time of the violation.



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Section 14 Definitions

A. Words and Phrases

The following words and phrases have the meanings indicated when used in this chapter according to Black's Law Dictionary, 5th edition, unless specified otherwise.

1. Abandonment - The giving up of a thing absolutely, without reference to any particular person or purpose, as vacating property with the intention of not returning, so that it may be appropriated by the next comer or finder. Intention to forsake or relinquish the thing is an essential element, to be proved by visible acts. Is the voluntary relinquishment of possessions by the owner with the intention of terminating his ownership, but without vesting it in any other person.
2. Accuse - To bring a formal charge against a person, to the effect that he is guilty of a crime or punishable offense.
3. Accused - The generic name for the defendant in a criminal case. A person becomes accused within the meaning of guarantee of speedy trial, only at a point at which either formal indictment or information has been returned against him, or when he becomes subject to actual restraints on his liberty imposed by arrest, whichever occurs first.
4. Accost - To approach and speak to; greet first, before being greeted, especially in an intrusive way. (New World Dictionary)
5. Arraignment - Procedure whereby the accused is brought before the court to plead to the criminal charge in the indictment or information.
6. Arrest - To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand. Arrest involves the authority to arrest, the assertion of that authority with the intent to effect an arrest, and the restraint of the person to be arrested. All that is required for an "arrest" is some act by an officer indicating his intention to detain or take a person into custody and thereby subject that person to the actual control and will of the officer; no formal declaration of arrest is required.
7. Citizen's Arrest - A private citizen, as contrasted with a police officer, may, under certain circumstances, generally make an arrest for a felony or misdemeanor amounting to a breach of the peace. A private citizen may arrest another:
 - a. for a public offense committed or attempted in his presence.
 - b. when the person arrested has committed a felony in his presence.
 - c. when a felony has been committed and he has probable cause to believe the person arrested has committed that felony.
8. Consent - The voluntary agreement by a person in the possession of an exercise of sufficient mental capacity to make an intelligent choice to do something proposed by another. It supposes a physical power to act, a moral power of acting and a serious, determined and free use of these powers. It is unclouded by fraud, duress, or sometimes, mistake.
9. Control - Power or authority to manage, direct, superintend, restrict, regulate, govern, administer or oversee.



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10. Custodial Interrogation - Requiring that a defendant be advised of his constitutional rights; meaning questioning initiated by law enforcement after the person has been taken into custody or otherwise deprived of his freedom in any significant way. Custody can occur without formality of arrest and in areas other than in a police station.
11. Detain - To arrest, to check, to delay, to hinder, to hold or keep in custody, to retard, to restrain from proceeding, to stay, to stop.
12. Excessive Force - That amount of force which is beyond the need and circumstances of the particular event; or which is not justified in light of all the circumstances, as in the use of deadly force to protect property as contrasted with protecting life.
13. Felony - A crime of graver or more serious nature than those designated as misdemeanors.
14. Fresh Pursuit - Refers to the common law right of a police officer to cross jurisdictional lines in order to arrest a felon.
15. Fugitive - One who flees; used in criminal law with the implication of flight, evasion or escape from arrest, prosecution or imprisonment.
16. Indictment - An accusation, in writing, found and presented by a grand jury, legally convoked and sworn, to the court in which it is impaneled, charging that a person therein named has done some act or omission, which by law is a public offense.
17. Interrogation - In criminal law, a process of questions propounded by the police to a person arrested or suspected, seeking the solution of a crime.
18. Inventory - A detailed list of articles of property containing a designation or description of each specific article.
19. Juvenile - A young person who has not yet attained the age at which he or she should be treated as an adult. Under the Federal Juvenile Delinquency Act, a "juvenile" is a person who has not attained his eighteenth birthday.

Note: The eighteenth year designation applies in Maryland with certain statutory exemptions.
20. Miranda Rule - Prior to any custodial interrogation, the person interrogated must be warned:
 - a. You have the absolute right to remain silent.
 - b. If you choose to answer, your answers can be used against you in court.
 - c. You have the right to a lawyer. If you want a lawyer and cannot afford one, one will be provided for you.
 - d. You have the right to talk privately with your lawyer before answering any questions and to have him with you during the questioning.
 - e. If you elect to answer questions without having a lawyer present, you have the right to stop at any time and obtain the services of a lawyer.
21. Misdemeanor - Offenses lower than felonies; generally those punishable by fine or imprisonment other than in a penitentiary.



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22. Ownership - The right of one or more persons to possess and use a thing to the exclusion of others. The right by which a thing belongs to someone in particular, to the exclusion of all other persons. The exclusive right of possession, enjoyment, and disposal; involving as an essential attribute the right to control, handle, and dispose.
23. Parole Arrest - Verbal order by a judge from the bench without written complaint or other proceeding of a person present before him and the order is executed immediately.
24. Possession - The law, in general, recognizes two kinds of possession: actual possession and constructive possession. A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it. A person who, although not in actual possession, knowingly has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it. The law recognizes also that possession may be sole or joint. If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.
25. Probable Cause - Reasonable cause; having more evidence for than against. A reasonable ground for belief in the existence of facts warranting the proceedings complained of. An apparent state of facts found to exist upon reasonable inquiry (that is, such inquiry as the given case renders convenient and proper), which would induce a reasonably intelligent and prudent man to believe, in a criminal case, that the accused person had committed the crime charged, or, in a civil case, that a cause of action existed.

Note: Probable cause requires a reasonable belief, based on reliable evidence, that the suspect has committed a crime. Probable cause must go beyond mere suspicion or a officer's hunch. On the other hand, it is less than absolute certainty. The evidence the officer needs to make a valid arrest doesn't have to amount to proof of guilt; however, it must show that the suspect has probably committed a crime. An arrest on mere suspicion cannot be justified by the results of a search after the arrest, nor is the lawfulness of an arrest affected by the fact that the arrested person may later be found innocent.
26. Reasonable Belief - "Reasonable Belief" or "Probable Cause" to make an arrest without a warrant exists when facts and circumstances within the arresting officer's knowledge, and of which he had reasonably trustworthy information, are sufficient in themselves to justify a man of average caution in belief that a felony has been or is being committed.
27. Reasonable Force - That degree of force which is not excessive and is appropriate in protecting oneself or one's property. When such force is used, a person is justified and is not criminally liable, nor is he liable in Tort.
28. Reasonable Grounds - Reasonable grounds within statute authorizing arrest without warrant by an officer who has reasonable grounds for believing that a person to be arrested has committed a criminal offense.
29. Search - A prying into hidden places for that which is concealed and it is not a search to observe that which is open to view. Probing or exploration for something that is concealed or hidden from searcher; an invasion, a quest with some sort of force, either



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actual or constructive. An examination of a man's house or other buildings or premises, or of his person, or of his vehicle, aircraft, etc., with a view to the discovery of contraband or illicit or stolen property, or some evidence of guilt to be used in the prosecution of a criminal action for some crime or offense with which he is charged. A "search" to which the exclusionary rule may apply is one in which there is a quest for, a looking for, or a seeking out of that which offends against the law by law enforcement personnel or their agents. Visual observation which infringes upon a person's reasonable expectation of privacy constitutes a "search" in the constitutional sense.

30. Search Incident to Arrest - An officer who has the right to arrest a person either with or without a warrant may search his person and the immediate area of the arrest for weapons, implements that may facilitate escape, and evidence or contraband that may be subject to loss or destruction.
31. Search Warrant - An order, in writing, issued by a justice or other magistrate, in the name of the state, directed to a sheriff, constable, or other officer, authorizing him to search for and seize any property that constitutes evidence of the commission of a crime, contraband, the fruits of crime, or things otherwise criminally possessed; or, property designed or intended for use or which is or has been used as the means of committing a crime. A warrant may be issued upon an affidavit or sworn oral testimony.
32. Seizure - The act of taking possession of property, e.g., for a violation of law or by virtue of execution of an order. The term implies a taking or removal of something from the possession, actual or constructive, of another person or persons.
33. Stop and Frisk - The temporary stopping and "patting down" of a person who behaves suspiciously and appears to be armed. An officer has the right to stop and pat down a person suspected of contemplating the commission of a crime. He need not have probable cause, but must reasonable, articulate suspicion of a crime. The scope of the search must be strictly relative to and justified by the circumstances which justified the initial stop. (1.2.4)
34. Suspect - To have a slight or vague idea concerning; not necessarily involving knowledge, belief or likelihood. In reference to probable cause for arrest without a warrant, it is commonly used in place of the word "believe".
35. Suspicion - The apprehension of something without proof or upon slight evidence. Suspicion implies a belief or opinion based upon facts or circumstances which do not amount to proof.
36. Tort - A private or civil wrong or injury, other than a breach of contract, for which the court will provide a remedy in the form of an action for damages. Three elements of every Tort action are: existence of a legal duty from defendant or plaintiff, breach of duty, and damage as proximate result.
37. Voluntary - Unconstrained by interference; un-impelled by another's influence; spontaneous; acting of oneself. Done by design or intention. Proceeding from the free and unrestrained will of the person. Produced in or by an act of choice. Resulting from free choice. The word, especially in statutes, often implies knowledge of essential facts.



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Chapter 28 Criminal Procedures
Section 15 Sexual Assault Evidence Kits (SAEK)

GO 19-029, 07/26/2019
Supersedes None

A. Policy

1. It is the policy of the APD to maintain Sexual Assault Evidence Kits and follow the victim notification and retention requirements according to Maryland requirements.

B. Victim Notification of Kit Status and Test Results

1. Sexual Assault Evidence Kits (SAEKs) delivered to APD by a hospital, a child advocacy center or a governmental agency shall be securely maintained in the Property & Evidence Section.
2. Victim request for information about SAEKs shall be forwarded to the Criminal Investigations Division.
3. If the SAEK is in Property & Evidence, the detective shall, within 30 days after the request, provide the victim with:
 - a. Information about the status of the kit analysis; and
 - b. All available results of the kit analysis; or
 - c. Notification that providing results would impede or compromise an ongoing investigation; or
 - d. Other reason for not providing the results to the victim.

C. Retention and Destruction of SAEKs

1. The Department shall retain the SAEK for 20 years.
2. The agency must also retain other crime scene evidence related to a sexual assault that has been identified by the State's Attorney as relevant to prosecution.
3. The 20-year retention requirement does not apply if:
 - a. The case has resulted in a conviction and the defendant has completed the sentence; or
 - b. All suspects identified by testing a sexual assault evidence collection kit are deceased.
4. When the victim has requested it, the detective shall notify the victim no later than 60 days before the date of the intended destruction or disposal of the evidence.
5. The victim may request that a law enforcement agency retain the sexual assault evidence for an additional 12 months or a period agreed upon by the victim and the CID Commander.

D. Reporting Requirements

1. The CID Commander or designee shall email the following information in a report to the OAG (SAEKReporting@oag.state.md.us) on or before September 1st every two years:
 - a. The number of sexual assault evidence collection kits in its possession as of June 30th of that calendar year;
 - b. The date each sexual assault evidence collection kit in its possession was received;
 - c. The number of sexual assault evidence collection kits tested within the prior 2 years as of June 30th of that calendar year;
 - d. The number of sexual assault evidence collection kits destroyed during the prior 2 years as of June 30th of that calendar year; and



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- e. The number of written requests received from victims received during the prior 2 years as of June 30th of that calendar year.

2. Suggested format of report:

Description (July1 – June 30 each year)	(Year 1) 20__	(Year 2) 20__
a. Number of SAEKs in Department's Possession		
b. Date SAEKs were Tested (list all dates)		
c. Number of SAEKs Received		
d. Number of SAEKs Destroyed		
e. Number of Written requests from victims.		