



HOWARD COUNTY DEPARTMENT OF POLICE

GENERAL ORDER OPS-04A ADULT ARREST PROCEDURES

EFFECTIVE FEBRUARY 13, 2020

This General Order contains the following numbered sections:

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I. POLICY

All citizens have basic rights set forth in common law, statutory law, and the State and Federal Constitutions. Members of the Howard County Department of Police (HCPD) shall exercise the power of arrest in compliance with the laws of the United States and the State of Maryland.

II. STATUTORY PROVISIONS

This Order contains numerous references to both statutory citations and language. While all such references are correct as of the effective date of this Order, they are subject to change through legislation and case law. Officers are responsible for following the correct law, after receiving appropriate notice and training, in the event the provisions cited in this Order have been amended or superseded.

III. PROMPT PRESENTMENT

- A. Maryland Rule 4-212 (e) and (f) requires that a person under arrest be taken before a judicial officer without unnecessary delay, and in no event later than 24 hours after arrest. The courts have ruled that unnecessary delay means withholding a defendant's opportunity for an initial appearance before a judicial officer after normal processing and after sufficient information has been obtained for charging.
- B. In cases where defendant processing and presentment before a Commissioner may be delayed for investigative purposes, the officer should consider the use of the HCPD Form 1230, Interrogation and Waiver Form. Failure to do so may jeopardize the admissibility of information obtained during any interrogation. The amount of time, reason for, and circumstance of any delay, as well as the mental and physical condition of the defendant, will be weighed by the Court when it determines the voluntariness of any statement obtained from the suspect.

IV. HANDCUFFING PROCEDURES

- A. Arrestees shall be handcuffed prior to any search.
- B. Handcuffs shall be applied with the hands behind the back, palms outward, keyholes facing up, and double locked.

EXCEPTION: When HCPD-issued restraining belts are used, the hands may be cuffed in the front with palms facing inward. Officers shall use the best resources available to adequately restrain the arrestee or request additional assistance when circumstances prevent handcuffing behind the back.

- C. Flex-cuffs are authorized for use as arrestee restraints when necessary.
- D. Members of the Tactical Team and the Emergency Services Unit (ESU) are authorized to use Tuff Tie restraint devices during operations where temporary restraint is needed and the person restrained is under observation.
 - 1. Tuff Tie Restraints shall be used in accordance with the manufacturer's directions ensuring that an overhand knot is tied in the tail end of the braided cord as close to the block as possible.
 - 2. Officers using this device will check the circulation of the person restrained to ensure the restraint device has been applied properly.
 - 3. Tuff Ties shall not be used during transport or if the arrestee is not under observation.
- E. Under no circumstances shall any officer engage in the hog-tying of an arrestee, defined as placing an arrestee face down on the ground with the arms handcuffed behind the back, the feet hobbled, and a strap hooked from the hobbled feet to the handcuff chain.
- F. Officers shall not kneel or sit on an arrestee's neck or back while handcuffing. Any time the arrestee spends on his stomach must be minimized. Detainees shall be removed from their stomach as soon as possible. Officers must be aware of the potential risks and monitor arrestees for signs of breathing, respiratory distress, etc.

V. ARRESTS WITH A WARRANT¹

- A. An arrest warrant is an order signed by a judicial officer authorizing a law enforcement officer to arrest a person.
 - 1. Only sworn members are authorized to serve warrants in Howard County.²
 - 2. Prior to making an arrest under the authority of a warrant, officers shall verify that the information on the warrant is correct and confirm that the warrant is active.
- B. Investigating Officer
 - 1. When making application for an arrest warrant, officers shall complete HCPD Form 3111, Warrant Control Information Sheet, and attach it to the application. If the officer wishes to serve the warrant, the box "Return Warrant to Investigating Officer" should be checked. The warrant will be processed by Records and the Warrant/Fugitive Section, and the officer will be notified when the warrant is ready for service.
 - 2. When it is imperative that an arrest be made as soon as possible, during the Record Section's regular business hours the investigating officer may take possession of the warrant from the Commissioner's Office. The warrant must then immediately be taken to the Records Section so it can be entered into NCIC and ILEADS. The original copy will remain with the Records Section and a copy can be retained by the officer for his records.

¹ CALEA 1.2.5
² CALEA 74.3.2

3. If an application for an arrest warrant is submitted outside of the Record Section's normal business hours, it is recommended that officers utilize the 24-hour Commissioner's Office at Central Booking. This is to ensure that officers can get a copy of the warrant and confirm the warrant with the Commissioner in the event the suspect is taken into custody prior to the documentation reaching the Records Section.
4. Officers will not take possession of the original warrant outside of the Record Section's business hours. Officers must allow the original warrant to be sent to the Records Section through normal channels.
5. Under no circumstance is an officer to remove a warrant file from the Records Section to attempt service. Officers may make a copy of the face sheet of the warrant for their use.

C. Warrant Service³

1. Warrants may only be served between the hours of 0600 and 2300 in a residential setting unless special circumstances exist, i.e. officer safety, destruction or loss of evidence, the seriousness of the crime, etc., and supervisory approval is obtained.
2. Members shall confirm that a warrant is active through the Records Section or Communications prior to service. If confirmation of a warrant is needed outside of the Record Section's business hours, an HCPD Supervisor will respond to the Records Section or the Commissioner's Office to confirm the warrant.
3. Patrol officers have the ability to check ILEADS for open warrants within their beat area. Regardless of the ILEADS status of the warrant, it must still be confirmed by the HCPD Records Section or through Communications prior to service.
4. When a subject in Howard County is detained in the field because an outstanding warrant exists in another jurisdiction, the warrant must be verified before an arrest is made. The Communications Division will send a teletype to the appropriate agency requesting immediate (within 10 minutes) written confirmation that the warrant is still active.
5. Howard County Sheriff's Office (HCSO) warrants must be confirmed prior to service. The ILEADS listing of a HCSO warrant is not automatic confirmation.
 - a. During business hours, warrants shall be confirmed by calling the Sheriff's office. After business hours, the on-call member from HCSO must be contacted through the Communications Division to verify the warrant.
 - b. Custody of the arrest must be transferred to the Sheriff's Office for warrant service.
6. Officers serving arrest warrants outside of Howard County shall contact the appropriate law enforcement agency for assistance. Personnel from the local jurisdiction should accompany the HCPD officer to assist with the arrest. Officers working under a county-approved MOU or task force may have authority to make the arrest.
7. Whenever a warrant has been served, the arresting officer will complete and fax the return of service form to Communications and/or the Records Section.
 - a. Communications or Records will immediately upon receipt of the return of service clear the subject from RMS/METERS/NCIC prior to the commissioner's hearing.
 - b. For warrants that originate in other jurisdictions, the return of service must be faxed to that jurisdiction for removal.

³ CALEA 74.3.1

D. Warrant Recall

1. Requests made by the State's Attorney's Office or any Maryland court to return an arrest warrant will be forwarded immediately to the Records Section.
2. A member of the Records Section will make appropriate notations on the Court Document Control Form and return the warrant(s) as requested. All computer entries will be cancelled.

VI. WARRANTLESS ADULT ARRESTS⁴

A. Felony: An officer may make a warrantless arrest of a person for a felony when:

1. A person commits or attempts to commit a felony in the officer's presence or within the view of the officer; or
2. The officer has probable cause to believe that a felony is being committed in the officer's presence or within the officer's view; or
3. 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 the officer's presence or view.

B. Misdemeanor

1. Committed in the Officer's presence or view: An officer may make a warrantless arrest of a person for a misdemeanor when:
 - a. A person commits or attempts to commit a misdemeanor in the officer's presence or within the view; or
 - b. The officer has probable cause to believe that a misdemeanor is being committed in his presence or within the officer's view.
2. NOT committed in an Officer's Presence or View: Prior to making an arrest for a misdemeanor not committed in an officer's presence or view, the officer must have probable cause to believe that the suspect has committed one of the misdemeanor offenses listed in OPS-04A, Appendix A, and unless that person is immediately arrested:
 - a. The person may not be apprehended; or
 - b. The person may cause injury to another or damage to another's property; or
 - c. The person may tamper with, dispose of, or destroy evidence.

C. Shoplifting

1. An adult shoplifting suspect may be arrested without an arrest warrant if:
 - a. The offense is committed in the officer's presence or view; or
 - b. Probable cause exists for felony theft; or
 - c. Probable cause exists for misdemeanor theft AND unless the suspect is immediately arrested:
 - i. He may not be apprehended (i.e. the suspect's identity cannot be reasonably confirmed); or

⁴ CALEA 1.2.5

- ii. He may cause injury to a person or damage to the property of others; or
 - iii. He may tamper with, dispose of, or destroy evidence.
2. If none of the conditions for a warrantless arrest exist, an officer shall not arrest an adult shoplifting suspect. Instead, the officer shall:
 - a. Instruct the complainant about the ability to file charges with a District Court Commissioner and the procedures to obtain a charging document, if applicable; and
 - b. Provide the name and address of the suspect to the complainant; and
 - c. Avoid using the word "warrant" because the Commissioner may issue a summons rather than an arrest warrant.
 - d. Alternatively, an officer may conduct his own investigation and obtain charging documents, if appropriate.

VII. COMMISSIONED SPECIAL POLICE OFFICERS (SPOs)

- A. The provisions of Section 3-307 of the Public Safety Article of the Maryland Annotated Code authorize a special police officer to exercise the powers of a police officer on the property of his employer.
- B. Officers dealing with any person claiming the status of a commissioned special police officer shall verify that status through inspection of that person's credentials.
- C. An officer investigating any incident in which an adult arrest has been made by a commissioned special police officer shall:
 1. Search the arrestee.
 2. Transport the arrestee and the SPO to the Central Booking Facility (CBF) or have the SPO follow the officer in his own vehicle.
 3. Assist the SPO with the booking process in accordance with CBF procedures.
 4. Provide the SPO with a blank Statement of Charges.
 5. Complete an Incident Report.
 6. Transport the arrestee and SPO to the Commissioner for a hearing or have the SPO follow the officer in his own vehicle.
 7. Officers shall neither prepare nor sign a Statement of Charges for a criminal offense alleged by a commissioned SPO.
 8. An officer dealing with an SPO who has arrested a juvenile shall refer to General Order OPS-4J, Juvenile Arrest and Contact Procedures.

VIII. ENTRY TO MAKE AN ARREST

- A. A warrant or consent by an authorized person is generally required to enter a residence or dwelling. However, exigent circumstances may be so compelling that a warrantless entry would be reasonable under the Fourth Amendment. For the purpose of this General Order, a "forced entry" is any time a police officer enters a dwelling or residence without a warrant or consent by the owner or another authorized person.

B. Entry into a Residence to Carry Out an Arrest

1. An arrest warrant authorizes entry into the residence of the person named in the arrest warrant. Officers with an arrest warrant may enter with consent of the person named or another authorized person, or may make a forced entry to arrest the person named only if:
 - a. The officer reasonably believes the residence is that of the person named in the arrest warrant; and
 - b. The officer reasonably believes the person named in the warrant is inside his residence; and
 - c. The officer demands entry into the residence and is denied entry or persons inside refuse to communicate (implied denial of consent).
2. An arrest warrant does not authorize entry into the residence of a third party. If the person named in an arrest warrant is in the residence of a third party, the officer may enter the residence to make the arrest only if:
 - a. The owner or other authorized person consents to the entry; or
 - b. The officer obtains a search and seizure warrant authorizing entry into the third party's residence; or
 - c. Exigent circumstances justify a warrantless forcible entry into the residence.
3. An officer who does not have an arrest warrant may enter a residence to make a warrantless arrest only if:
 - a. The owner or other authorized person consents to the entry; or
 - b. The officer obtains a search and seizure warrant authorizing entry into the third party's residence; or
 - c. Exigent circumstances justify a warrantless forcible entry into the residence.

C. Exigent Circumstances

1. For the purpose of this General Order, exigent circumstances justifying a warrantless forced entry into a dwelling or residence include:
 - a. To render emergency assistance to a person inside or to protect an occupant from imminent injury; or
 - b. Hot pursuit of a fleeing felon; or
 - c. To prevent danger to real property, not personal property located within, such as during a fire; or
 - d. The officer has probable cause that a serious crime has been committed and entry is necessary to prevent the imminent destruction or removal of evidence, and the exigency is not created by the police threatening a warrantless entry; or
 - e. Any other situation, including imminent risk of harm to officers or members of the public, where the need for immediate entry is so compelling that it would be unreasonable to take the time to obtain a warrant.

Note: The seriousness of a crime committed does not, in and of itself, create exigent circumstances that would justify a warrantless entry.

2. Except when the exigency of a situation demands immediate action, a supervisor must approve a warrantless forced entry into a dwelling or residence solely to make an arrest. Factors to determine exigency include but are not limited to:
 - a. The degree of urgency and the amount of time it would take to obtain a warrant; and
 - b. The officer's reasonable belief that contraband is about to be removed or destroyed; and
 - c. The possibility of danger to officers guarding or securing the premises; and
 - d. Information that indicates the occupants are aware that police are on their trail; and
 - e. The ready destructibility of the contraband.

IX. RELEASE WITHOUT PROSECUTION⁵

- A. Only a District Court Commissioner can determine if a person arrested under an arrest warrant is eligible for pre-trial release. An officer who arrests a person pursuant to an arrest warrant may not release the person without prosecution unless:
 1. The officer determines the arrestee did not commit the offense charged on the warrant;
 2. The officer determines the person arrested is not the person named in the warrant; or
 3. The officer obtains the permission of a supervisor and the State's Attorney's Office to release the person prior to the Commissioner hearing, and the approval is documented in an Incident Report.
- B. An officer may arrange for a *nolle prosequi* through the State's Attorney Office after the Commissioner's hearing.
- C. An officer who makes a warrantless arrest of an adult may release the person without prosecution at any time prior to the Commissioner's hearing.
 1. Supervisory approval must be obtained prior to release.
 2. Any officer making a release will completely document the incident and the reasons for the release in an Incident Report. An Arrest Sheet (HCPD 1250) must also be completed noting "Released Without Prosecution" or "RWOP" in the charging area of the form.

X. SPECIAL CIRCUMSTANCES

- A. Foreign Nationals
 1. HCPD officers have no statutory authority to enforce civil violations of federal immigration laws.
 2. In the event of a physical arrest, after transport of the arrestee to the Central Booking Facility the officer shall complete an arrest report. If ICE has confirmed the arrestee as a deported felon, the officer shall complete a Detainee Alert Form, HCPD Form 1251.

⁵ CALEA 1.2.7 & 1.2.5

3. Members shall refer to OPS-10, Foreign Nationals, for detailed information regarding procedures for interactions with citizens of other countries.

B. Military Personnel

1. The Office of the Provost Marshal at Fort Meade, Maryland, shall be notified whenever any member of the United States Armed Forces is arrested.
2. The Uniform Code of Military Justice provides authority for civil law enforcement officers to arrest a deserter from the United States Armed Forces.
 - a. Officers who arrest military deserters shall treat the offense as a misdemeanor, process the individual in accordance with current procedures, and notify the Provost Marshal as indicated above.
 - b. In accordance with General Order ADM-12, Code of Conduct, officers shall not accept any bounty or other gratuity from the Federal Government for arresting a deserter unless the Chief of Police grants special permission.

C. Law Enforcement Officers

1. An officer who arrests a person identified as an active law enforcement officer shall immediately notify his supervisor and the Watch Commander, who shall notify a commander within the employing agency.
2. Notification will be documented in the Incident Report.

D. Mail Carriers

1. Any person arrested while actively engaged in the delivery of United States mail or while operating a vehicle transporting United States mail shall be permitted to turn the mail and/or vehicle over to a representative of the Postal Service prior to his removal from the scene of the arrest. If a postal service representative cannot respond to the scene within a reasonable period of time, another officer will remain with the mail and/or vehicle until postal authorities arrive.
2. All other arrest procedures shall apply.

E. Legislators

1. There is no provision in Maryland law that exempts any state or local government official, either appointed or elected, from arrest under any federal, state, or local laws. The issuance of a traffic citation, a warning, or a physical arrest in those cases where physical arrest is authorized, is permitted.
2. In regard to U.S. Congressmen, the following provision is taken from the Constitution of the United States, Article 1 §6:

The United States Senators and Representatives "shall in all cases, except for Treason, Felony and Breach of the Peace, be privileged from arrest 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, they shall not be questioned in any other Place."

F. Correctional Employees

1. The Maryland Division of Corrections (DOC) Investigative Unit handles both criminal and administrative investigations within all DOC institutions and facilities and requests notification via METERS teletype of an arrest of a DOC or Patuxent Institution employee.

2. If the arrested employee indicates that he possesses information pertaining to criminal or serious administrative violations within a correctional facility, immediate notification will be made by the arresting officer to the Investigative Unit by calling the DOC Monday through Friday between 0830 and 1630, and the Maryland State Police Headquarters at 410-653-4200 daily from 1630 through 0830.
3. The DOC Investigative Unit will contact the arresting officer, evaluate the circumstances, and respond when necessary to obtain pertinent information.
 - a. When requested, the Investigative Unit will provide investigative assistance.
 - b. The Unit will also make notification to the Commissioner of Corrections and the Director of the Patuxent Institution, as appropriate.
4. The DOC Investigative Unit should be notified whenever information is developed indicating that a DOC or Patuxent Institution employee is involved in criminal activity. This notification shall be made with supervisory approval. This notification will not be made if it would jeopardize an ongoing investigation.

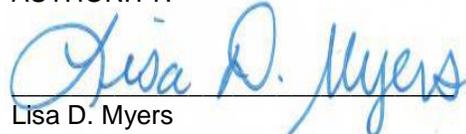
XI. MASS ARRESTS

Refer to General Order OPS-62, Civil Disturbances, for information on Mass arrest situations.

XII. CANCELLATION

This General Order, in conjunction with OPS-04J, Juvenile Arrest and Contact Procedures, and OPS-04T, Traffic Arrest Procedures, cancels and replaces General Order OPS-04, Arrest Procedures, dated October 10, 2012.

AUTHORITY:


Lisa D. Myers
Chief of Police