

Chevy Chase Village Police Department

General Order

Subject: ARRESTS WITHOUT WARRANTS
PROCESSING ARRESTED PERSONS

- New
- Amended

CALEA: 1.2.5, 1.2.6, 1.2.7, 55.2.3-c, 82.2.1-a-b-c-d-e

- Rescinds 5 – 29.1

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Roy A. Gordon Chief of Police	05/21/2009	8	5-29.1

I. POLICY

In Maryland, police officers are governed by the “Laws of Arrest”, which are enumerated in Criminal Procedure §2-102. As a matter of policy, all Chevy Chase Village Police officers shall have a thorough working knowledge of the “Laws of Arrest” and all arrests will be made pursuant to the provisions of this statute. An officer may make an arrest without a warrant for any felony, but certain criteria must be met before the officer can make a misdemeanor arrest without a warrant. (CALEA 1.2.5)

II. THE LAWS OF ARREST

A. Offenses Committed Overtly

1. 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 view of, such officer.
2. A police officer who has probable cause to believe that a felony or a misdemeanor is being committed in the officer’s presence or within the officer’s view, may arrest without a warrant any person whom the officer may reasonably believe to have committed such offense.

B. Attempt to Commit Felony

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 the officer’s presence or view.

C. Domestic Abuse

A police officer may arrest a person without a warrant if the officer has probable cause to believe that:

1. The person battered the person's spouse, or other individual with whom the person resides; and,
2. There is evidence of physical injury; and,
3. Unless the person is immediately arrested, the person may not be apprehended; or,
4. The person may cause injury to the person or damage to the property of one or more other persons; or,
5. The person may tamper with, dispose of, or destroy evidence; and,
6. A report to the police was made within 48 hours of the alleged incident.

D. Stalking

1. An officer may arrest a person without a warrant if the officer has probable cause to believe that a stalking (under Criminal Record § 3-802) has been committed;
2. The officer has reason to believe that the alleged stalking victim or a third person is in danger of imminent bodily harm or death; and,
3. The officer's probable cause is supported by credible evidence other than statements of the alleged stalking victim.

E. Probable Cause Developed to Arrest for Certain Offenses

1. A police officer may arrest a person without a warrant if the officer has probable cause to believe that one of the offenses listed below has been committed, that the person has committed the offense and that unless immediately arrested the person may not be apprehended, or the person may tamper with, dispose of, or destroy evidence:
 - Criminal Law Article §6-101, relating to the burning of barracks, cribs, hay, corn, lumber, etc., railway cars, watercraft, vehicles, etc.
 - Criminal Law Article § 6-104 and § 6-105, relating to setting fire while committing a crime,
 - Criminal Law Article §4-203 and § 4-204, relating to carrying or wearing a weapon,
 - Criminal Law Article §6-301, relating to destroying, injuring, etc., property of another,

- Criminal Law Article § 9-604, relating to giving a false alarm of fire,
 - Criminal Law Article § 5-101, relating to possession of hypodermic syringes,
 - Criminal Law Article § 7-104 and § 7-105, relating to theft, where the value of the property stolen was less than \$500,
 - Criminal Law Article § 6-201, relating to breaking into a building or boat with the intent to steal,
 - The common law crime of assault when committed with the intent to do great bodily harm,
 - Title 5 under the Criminal Law Article, relating to drugs and other dangerous substances,
 - Criminal Law Article § 4-203 and § 4-204, relating to handguns,
 - Criminal Law Article § 2-209, relating to manslaughter by automobile, motorboat, etc., and
 - Criminal Record § 11-107 relating to indecent exposure.
2. A warrantless arrest, pursuant to the provisions described above is permitted for attempts to commit the offenses specified below:
- Criminal Law Article § 6-101,
 - Criminal Law Article § 6-104 and § 6-105,
 - Criminal Law Article § 6-301,
 - Criminal Law Article § 7-104 and § 7-105,
 - Criminal Law Article § 6-201
 - Title 5 under the Criminal Law Article

F. Limited Statewide Jurisdiction

A police officer may make arrests, conduct investigations, and otherwise enforce the laws of this State throughout the State without limitations as to jurisdiction, provided the officer strictly adheres to the following:

1. The officer may not enforce the traffic laws in areas outside the officer's jurisdiction (unless acting under a Mutual Aid Agreement),
2. The officer is participating in a joint investigation with officials from any other State, Federal, or Local law enforcement agency, at least one of which having jurisdiction;
3. The officer is rendering assistance to another police officer;
4. The officer is acting at the request of a local police officer or a State Trooper; or,
5. An emergency exists; and,
6. The officer is acting in accordance with Department regulations governing limited statewide jurisdiction. (see **General Order 3-3**)

For the purpose of this directive, an "emergency" is defined in the "Laws of Arrest" as "a sudden or unexpected happening or an unforeseen combination of circumstances that calls for immediate action to protect the health, safety, welfare, or property of an individual from an actual or threatened harm or from an unlawful act."

III. WARRANTLESS ARRESTS OF FUGITIVES

- A. Pursuant to Article 41, § 2-214, of the Annotated Code of Maryland, the arrest of a person may be lawfully made by any peace officer, without a warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year.
- B. When so arrested, the defendant shall be taken before a Judge or Court Commissioner with all practicable speed and complaint must be made against the defendant, under oath, setting forth the ground for the arrest as in the preceding section.

IV. WARRANTLESS NON-TRAFFIC ARRESTS AND ON-VIEW ARRESTS

When a non-traffic warrantless arrest is made the arresting officer shall search, handcuff, and transport the defendant pursuant to Department policies and procedures.

- A. The defendant will be transported to the Central Processing Unit (CPU) for processing, unless medical attention is needed, in which case the defendant's medical attention takes precedence.
- B. If the defendant is in need of medical attention, he/she shall be transported to the nearest medical facility by police vehicle or ambulance, which ever is appropriate.

- C. When the defendant is processed, the processing will be in accordance with the MCP Field Report Manual and Department directives.
- D. Completing a Report (CODY RMS for incidents within the Village or Montgomery County Event Reports for incidents in contracted areas) to describe: (CALEA 82.2.1-b-c-d)
 - 1. The circumstances surrounding the incident,
 - 2. The probable cause which led to the defendant's arrest,
 - 3. Statements made by any witnesses,
 - 4. The names of all officers on the scene, and
 - 5. What occurred pertaining to the defendant the entire time he/she was in the arresting officer's custody.
- E. A "State's Attorney's Evidence Information" form will be completed and forwarded with all other reports relating to the arrest.
- F. A "State's Attorney's Witness Information" form will also be completed and forwarded with the reports.
- G. If the arrested person is a fugitive, he/she will be processed in the manner described in General Order 5-29.

V. WARRANTLESS FELONY ARREST MADE BY AN S.P.O.

Occasionally, an officer is dispatched to a location where a person has been arrested/detained by security personnel, non-security personnel or a private citizen. If a commissioned Special Police Officer (S.P.O.) has arrested a person for a felony, the responding officer will:

- A. Verify that the S.P.O. is a commissioned Special Police Officer,
- B. Obtain a signed Statement of Charges from the S.P.O. (**officers may consider calling the Commissioner and reading the S.P.O.'s Statement of Charges over the phone to the Commissioner before transporting the defendant**). This protects against the Commissioner finding the document defective upon the officer's arrival and the S.P.O. who prepared it off-duty and/or cannot be located to make it acceptable.
- C. Transport the defendant to the CPU for processing in accordance with Department policies and procedures.

VI. WARRANTLESS FELONY ARRESTS MADE BY SOMEONE OTHER THAN A S.P.O.

For warrantless felony arrests made by someone other than a police officer or commissioned Special Police Officer, responding officers will:

- A. Determine if probable cause exists that a felony has been committed and the suspect committed it,
- B. Obtain a written statement signed by the complainant describing what occurred and probable cause exists for the defendant's arrest (a copy of a store's internal report is acceptable),
- C. If probable cause does exist, the responding officer may arrest the defendant.
- D. The defendant will be searched, restrained, and transported in accordance with Department policies and procedures.
- E. Upon arrival at the CPU, the arresting officer will write the Statement of Charges.

VII. WARRANTLESS MISDEMEANOR ARREST MADE BY AN S.P.O.

In the event an officer is dispatched to a location where a S.P.O. has made a misdemeanor arrest of an adult or juvenile, responding officers may charge the arrested person by way of a Criminal/Civil Citation, but must adhere to the following procedures: (CALEA 1.2.6)

- A. The defendant's identity must be established to the officer's satisfaction, and the officer must have reasonable grounds to believe that the defendant will comply with the citation's requirements.
- B. The officer must verify that the S.P.O. is a commissioned Special Police Officer.
- C. The defendant must reside in Maryland, or at least have a Maryland work address, and a wanted check must be negative.
- D. An officer issuing a citation may assign a Court date on the citation (**not Wednesdays**) or will check the block on the citation indicating the defendant will be notified by the Court when to appear for trial.
- E. The citation must contain a statement of probable cause, and the maximum penalty that the Court may assess (fine and period of incarceration) upon conviction.
- F. If the defendant is an adult, release the defendant after he/she signs the citation.

- G. If the defendant is a juvenile, release the defendant to his/her parent/guardian/custodian and have the parent/guardian/custodian sign the citation.
- H. A report is required regardless of the method by which the defendant was charged. An Arrest Report will not be completed if a citation is issued. (CALEA 82.2.1-a)
- I. A “State’s Attorney’s Witness Information” form and a “State’s Attorney’s Evidence Information” form will also be completed and forwarded with the reports.
- J. The citation and all reports and forms pertaining to the incident will be forwarded for supervisory approval. (CALEA 82.2.1-e)
- K. The Sergeant will ensure that the citation and reports and forms are checked for accuracy, completeness, and conformance to provisions of the Field Report Manual and the Citation Manual.
- L. Even if a defendant meets the above criteria, an officer still has the discretion to either physically arrest or have the S.P.O. apply for a charging document in those cases that would warrant such action (i.e., “professional shoplifter”). (CALEA 1.2.7)
- M. If an officer feels that issuing a citation would be inappropriate, the officer will have the S.P.O. either apply for a charging document or complete a Statement of Charges.

VIII. WARRANTLESS MISDEMEANOR ARREST BY SOMEONE OTHER THAN A S.P.O.

- A. For those misdemeanors listed in the “Laws of Arrest”, an officer can make a warrantless arrest, after a person has been detained by someone other than a S.P.O., provided that:
 - 1. There is probable cause to believe that the person has committed the offense and unless he/she is immediately arrested, he/she may not be apprehended, or
 - 2. They may cause injury to the person or damage to the property of one or more other persons, or
 - 3. They may tamper with, dispose of, or destroy evidence.
- B. For a warrantless misdemeanor arrest involving an adult that was made by someone other than a police officer or S.P.O., responding officers will follow the procedures listed below:
 - 1. Obtain I.D. from the suspect, and if the suspect’s identity is established to the officer’s satisfaction, and the suspect is a Maryland resident (or

has a Maryland work address), and is not currently wanted as a result of the officer's wanted check, the suspect is not to be arrested.

2. The officer will advise the complainant/victim that, pursuant to the "Laws of Arrest", the defendant cannot be lawfully arrested.
3. The officer will provide the complainant/victim with the suspect's I.D. information, the report number, and the procedures for applying for a charging document. The officer will note this advice in the incident report. (CALEA 55.2.3-c)
4. If an officer does not make an arrest at the scene, but refers the complainant/victim to the Commissioner to apply for a charging document, the officer will not send anyone directly to the Commissioner's office without writing a report.
5. If an officer's preliminary investigation reveals that the incident about which a citizen is complaining did not occur in the Village, the citizen should be advised to respond to the MCP station in the district of occurrence to have a report made. Exception: when the offense occurred in a contracted area and the officer is working in that contract area.
6. If the suspect has no identification, or the officer has reason to believe it to be false, or the suspect is not a Maryland resident (or does not have a work address in Maryland), or the suspect is wanted, the officer may arrest the suspect and transport him/her to a police facility for processing (in accordance with the "Laws of Arrest").
7. An officer may not issue a Criminal/Civil Offense Citation to this suspect. (Only for misdemeanor arrests made by an S.P.O.)

IX. CRIMINAL ARREST WITHOUT PLACING FORMAL CHARGES

If an arrest is made based upon probable cause, but the arresting officer shortly thereafter determines that the placing of formal charges would be inappropriate, the defendant shall be released without unnecessary delay, and a Police Information Report will be written describing the incident. (CALEA 82.2.1)