



## **ARREST PROCEDURES**

### **Directive: 16-100**

Date of Issue: January 2016      Amends/Cancel: 14-100

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#### **I. PURPOSE**

To provide guidance to sworn members of Department of General Services Maryland Capitol Police (DGS-MCP) when executing arrests.

#### **II. POLICY**

Police officers will make arrests and take persons into custody in a professional manner that conforms to Department policies and procedures explained in this directive. All federal, state and local laws will be followed when affecting an arrest.

#### **III. PROCEDURES**

##### **A. ARRESTS IN GENERAL**

1. An arrest must never be made because the officer feels that his/her dignity was impaired by derogatory remarks by a citizen. An officer must feel immune to attempts to belittle his/her office. Every arrest will be made on the basis of a valid arrest warrant or on the existence of probable cause, pursuant to the provisions of the law.
2. In making an arrest, the officer must use discretion regarding his own safety and the security of his prisoner, always remembering that he is responsible for the prisoner, and for doing whatever is necessary to keep him safe.
3. Absent emergent circumstances, officers will await assistance before arresting a person who is known or believed to be armed or dangerous.
4. After an officer has made an arrest, the arrestee will be delivered to the appropriate facility for processing, depending on the location where the arrest was made. Officers are responsible for knowing and abiding by the content of any agreements with allied agencies whose facilities will be utilized, including the required procedures and protocol for prisoner security and monitoring.

## B. ARRESTS WITH A WARRANT

1. A warrant is a court order granting the authority to arrest and is recognized both under common law and current statutes.
2. Having confirmed that a valid arrest warrant exists, an officer may make an arrest no matter if the crime is a felony or misdemeanor.
3. A copy of the warrant shall be served on the defendant promptly after the arrest. The defendant shall be taken before a judicial officer of the District Court without unnecessary delay and in no event later than 24 hours after arrest or, if the warrant so specifies, before a judicial officer of the Circuit Court without unnecessary delay and in no event later than the next session of court after the date of arrest.
4. Additional procedures for arrests with a warrant are outlined in **Directive 14-100.1**.

## C. ARRESTS WITHOUT A WARRANT

1. An officer may make a warrantless arrest of a person for a felony when:
  - a. a person commits, or attempts to commit, a felony in the presence of, or within the view of the officer;
  - b. the officer has probable cause to believe that a felony is being committed in the his presence or within his view and the officer reasonably believes the person being arrested committed the crime; and
  - c. 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.
2. An officer may make the warrantless arrest of a person for a misdemeanor when:
  - a. the person commits, or attempts to commit, a misdemeanor in the presence of, or within the view of the officer; and
  - b. the officer has probable cause to believe that a misdemeanor is being committed in the officer's presence or within the officer's view.
3. Prior to making a warrantless arrest for a misdemeanor not committed in the 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 the *Maryland Digest of Criminal Laws*.
4. Additionally, the officer must have probable cause to believe that unless the person being arrested without a warrant for a misdemeanor offense not committed in the officer's presence is immediately arrested the person may:

- a. not be apprehended;
- b. cause physical injury or property damage to another; or
- c. tamper with, dispose of, or destroy evidence.

#### D. USE OF FORCE WHEN MAKING AN ARREST

1. An officer should use only such force as may be necessary to take a prisoner into custody. If an officer is resisted, the officer may repel force with force.
2. When force is used in making an arrest, the officer will follow the use of force policy described in Directive 8-101.

#### E. PRISONER SEARCHES

1. The law permits the search of a lawfully arrested person to prevent the destruction of evidence, insure the safety of the arresting officer and prevent possible harm to the arrestee or others.
2. Personnel shall, absent exigent circumstances, perform a thorough and systematic search, prior to transporting an arrested person. The following property shall be taken from the arrestee:
  - a. Property carried unlawfully
  - b. Property lawfully carried, but dangerous to life or would facilitate escape
  - c. Evidence
3. Each officer taking custody of a prisoner will, prior to transport, detention, interview or interrogation, conduct a search of the prisoner regardless of whether a previous search was conducted.
4. Upon entering an MCP facility and before removing any restraining devices, the on-duty supervisor will conduct a second search of the prisoner or ensure that the prisoner is searched in his presence.
5. Whenever an arrested person is interrogated, or processed at an MCP facility, the on duty supervisor will ensure that all involved personnel secure their firearms in an appropriate location.
6. Civilian personnel will not normally be utilized to search prisoners and will not be ordered to do so. Civilian employees will not guard, or be left alone with a prisoner.

## 7. Search of Females

- a. The arresting officer will exercise the same diligence in searching female prisoners for concealed weapons or other dangerous instruments as exercised with male prisoners. The scope of such searches, however, must be consistent with the crime, the circumstances surrounding the arrest and the character of the arrestee.
- b. As a general rule, a female prisoner will be searched by a female police employee. Every reasonable effort will be made to anticipate the arrest of females and to arrange for the presence of a female police officer.

## F. PRISONER SECURITY

1. Whenever an officer makes an arrest, or at any time has a prisoner not confined in a cell, he will guard him closely, using the utmost precaution to prevent such prisoner from escaping or from injuring anyone in such an attempt.
2. Items that could be used to harm the arrestee should be removed from their person, prior to being secured in a holding cell (i.e., shoe laces, belts, or anything else that could be used to harm the arrested person).
3. Prisoners will be visually observed at all times when not secured in a holding area.
4. Prisoners who are secured in a holding area will be observed every 30 minutes to ensure their well-being. Prisoners determined to be a security risk, believed to have a medical condition or a danger to themselves should be checked more frequently.
5. Juvenile arrestees will always be separated from adult arrestees by sight and sound. An authorized person will always monitor the juvenile arrestee until such time as the juvenile is released to a parent, guardian or juvenile services agency.
6. Female arrestees will also be separated from male arrestees at all times.

## G. TRANSPORTING PRISONERS

1. When transporting prisoners every officer will employ approved restraining devices and methods.
2. Prisoners transported in MCP vehicles will be restrained by a seat belt or restraint device as described under Transportation Article 22-412.
3. All individuals in custody will be restrained through the use of handcuffs or flex-cuffs utilized to the rear, except:
  - a. when precluded by physical condition, deformity or injury;
  - b. when prohibited by court order.

4. When an officer transports a juvenile or a prisoner of the opposite sex, he will provide the communications personnel the following information which will be documented in the CAD:
  - a. name of the prisoner;
  - b. exact starting location;
  - c. starting odometer reading;
  - d. exact ending location; and
  - e. ending odometer reading.
5. If more than one prisoner is transported, an additional officer will sit behind the driver and the second prisoner will be restrained by a seat belt or restraint device as described under Transportation Article 22-412 in the back seat.

#### H. CARE OF PRISONERS

1. When a prisoner is sick or injured, the arresting officer will immediately call for assistance and arrange for appropriate medical treatment.
  - a. The officer may request an ambulance or transport the person himself if appropriate.
  - b. No prisoner may be transported in a prone position while restrained.
2. Under no circumstances will an unconscious prisoner be placed, or allowed to remain on a DGS owned or managed facility without medical treatment, even though the prisoner's condition may have been caused by intoxicants.
3. The MCP does not assume financial responsibility for medical treatment of prisoners.
4. Pursuant to state law obligations incurred for medical services of persons in custody are assumed either by the patient or the county having jurisdiction.

#### I. ARREST LOG

A quick reference for tracking arrests of adults and juveniles can be reviewed by supervisors within the "REPORT EXEC" CAD/RMS system. The report can be generated by going to the SUPERVISOR/ADMIN. REPORTING/INCIDENT STATISTICAL REPORTING Tab and selecting: "ARRESTS MADE - ADULT" or "ARRESTS MADE - JUVENILE" from the "Report Type" drop down.

#### J. DOCUMENTING DETENTIONS/ARRESTS

1. In every instance, when a person is physically detained or arrested, the arresting officer will complete an Incident Report in the “REPORT EXEC” CAD/RMS system.
2. The arrestee will be listed as a “CONTACT” within the report and “ARRESTED” will be checked under the “Contact Type”. The officer will then complete the “ARRESTED” Tab within the Contact. This will generate the “ARREST/BOOKING SHEET” as part of the report.
3. The officer initiating the detention will complete the above even if the person detained is not placed in a holding cell. This includes detainees not brought to the Detachment but only transported to another installation or police department.
4. Supervisors will ensure that the officer completes this prior to the end of the officer’s tour of duty.

#### K. PERSONAL PROPERTY OF DETAINEES

1. The personal property of detainees will be removed from their possession and control and each item will be recorded on the PERSONAL PROPERTY LOG under the ARRESTED Tab within the Incident Report.
2. The PERSONAL PROPERTY LOG will be printed out and the signatures of the detainee and an officer will be recorded on the form when the property is taken into custody and released.
3. The printed form will then be uploaded into the reporting system as Digital Media file attached to the Incident Report.

#### L. INJURY TO PRISONERS

1. Whenever a prisoner is injured during an arrest or while in custody, the involved officer will immediately report the injury to the on duty supervisor.
2. Medical aid will be rendered as soon as practical.
3. Photographs of the injury will be taken and uploaded into the CAD/RMS Reporting System.
4. The arresting officer will check the “ARRESTED” and “INJURED” box on the CONTACT Tab of the Incident Report and complete the “INJURED” tab.
5. In all cases, the incident report, photographs, and related documents will be submitted immediately, through channels, to the Detachment Commander.

#### M. RECEIVING A PRISONER FROM ANOTHER AGENCY

1. When a prisoner is received from a detention facility by a trooper for transport to another detention facility (e.g., extradition), the transporting officer will:
  - a. positively identify the person who is to be transported using a booking photo, photo identification card or other means to ensure that he is transporting the correct prisoner;
  - b. ensure that all required documentation (e.g., Governor's Warrant, extradition waiver, commitment papers) is received from the originating facility; and
  - c. specifically request any documentation that relates to the prisoner's escape, security or suicide risk.

#### N. ESCAPE OF A PRISONER DURING TRANSPORT

1. If a prisoner escapes during transport in Maryland, the officer will:
  - a. notify the local Detachment via radio or telephone;
  - b. take any action that is appropriate to re-apprehend the prisoner; and
  - c. ensure that his commander is notified as soon as practical.
2. If a prisoner escapes during transport outside Maryland, the officer will:
  - a. notify local law enforcement by calling 9-1-1;
  - b. provide any assistance to local law enforcement that is appropriate to assist in re-apprehending the prisoner; and
  - c. ensure that his commander is notified as soon as practical.
3. An Incident Report that documents the circumstances of the escape and the actions taken following the escape will be completed by the officer regardless of where the prisoner escapes and charging documents will be completed.

#### O. RELEASE OF DETAINEES WITHOUT CHARGES

1. If a person is arrested based on probable cause and further investigation reveals additional information and the detained person is released without charges, a supervisor will be immediately notified.

2. After reviewing the facts of the case with the arresting officer, the supervisor will make a determination as to the feasibility of releasing the detainee.
3. When a detainee is released without charges preferred, and Incident Report will be completed. The report will include the basis of probable cause that led to the arrest, a detailed synopsis of the subsequent investigation and all pertinent details that led the officer to release the arrestee with no charges preferred.
4. In accordance with Maryland Annotated Code, Criminal Procedures, Title 10, Subtitle 1, §10-103, a person who is arrested or confined by a law enforcement unit and then is released without being charged with the commission of a crime is entitled to expungement of all police records, including photographs and fingerprints, relating to the matter within 60 days.
5. If a supervisor determines that a detainee should be released without charges, the supervisor will immediately make notification to their Commander and complete an MCP Form 20.
6. Upon receipt of the Form 20, the Detachment Commander will immediately forward it to Headquarters.