

Bowie Police Department - General Orders



TITLE: WARRANTLESS ARRESTS	NUMBER: 415
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AUTHORITY Chief John K. Nesky	ACCREDITATIONS STANDARDS CALEA STANDARDS: 1.2.5, 1.2.6, 1.2.7	TOTAL PAGES 7
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I. POLICY

In Maryland, Police Officers are governed by the “Laws of Arrest,” which are enumerated in Maryland Annotated Code, Criminal Procedure Art., Title 2. As a matter of policy, Police Officers shall have a thorough working knowledge of this statute 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.

II. THE LAWS OF ARREST

A. Offenses Committed in Presence of Officer – Criminal Procedure §2-202

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, the Officer.
2. A Police Officer who has probable cause to believe that a felony or 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 – Criminal Procedure §2-204

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 (a) may not be apprehended; or, (b) may cause injury to the person or damage to the property of one or more other persons; (c) the person may tamper with, dispose of, or destroy evidence; and,
4. A report to the police was made within 48 hours of the alleged incident.

D. Stalking – Criminal Procedure §2-205

1. An Officer may arrest a person without a warrant if the Officer has probable cause to believe that a stalking under the Annotated Code of Maryland, Criminal Law Art§ 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 – Criminal Procedure §2-203

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 in violation of the Annotated Code of Maryland:

- Criminal Law Art §6 - 101, relating to the burning of barracks, cribs, hay, corn, lumber, etc. railway cars, watercraft, vehicles, etc.
- Criminal Law Art §6 - 102, relating to setting fire while committing a crime,
- Criminal Law Art §4 - 203, relating to carrying or wearing a weapon,
- Criminal Law Art §6 - 301, relating to destroying, injuring, etc., property of another,
- Criminal Law Art §9 - 604, relating to giving a false alarm of fire,
- Criminal Law Art §5 - 619, relating to possession of hypodermic syringes,

- Criminal Law Art §7 - 104, relating to theft, where the value of the property stolen was less than \$1000,
 - Criminal Law Art §6 - 204, 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,
 - Criminal Law Art §5 - 601, relating to drugs and other dangerous substances,
 - Criminal Law Art §4 – 203 and 204, relating to handguns,
 - Criminal Law Art §2 – 503 and 504, relating to manslaughter by automobile, motorboat, etc., and
 - Criminal Law Art §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 Art §6 - 106,
 - Criminal Law Art §6 - 301,
 - Criminal Law Art §7 - 104,
 - Criminal Law Art §6 - 204, and
 - Criminal Law Art §5 - 601

F. Limited Statewide Jurisdiction – Criminal Procedure §2-102

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.

For the purpose of this directive, an “emergency” is defined 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 actual or threatened harm

or from an unlawful act.”

III. WARRANTLESS ARRESTS OF FUGITIVES

- A. Pursuant to Article 41, Section 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 D.O.C. 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, whichever is appropriate.
- C. When the defendant is processed, the processing will be in accordance with Department directives.
- D. The Officer must complete an Incident Report to describe:
 - 1. The circumstances surrounding the incident,
 - 2. The probable cause which justified the defendant’s arrest,
 - 3. Statements made by any witnesses and/or the defendant,
 - 4. The names of all Officers on the scene, and
 - 5. Any other relevant facts pertaining to the defendant the entire time he/she was in the arresting Officer’s custody.
- E. The Officer will complete a “State’s Attorney’s Evidence Information” form and forward it 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 5-34.

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 is off-duty and/or cannot be located to make it acceptable.)
- C. Transport the defendant to the D.O.C. 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 what 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 DOC, 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 an 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/Civilian Citation, but must adhere to the following procedures:

- 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 will check the block on the citation indicating the defendant will be notified by the Court when to appear for trial. The General Order for Criminal Citations shall be followed.
- 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. An Incident Report is required regardless of the method by which the defendant was charged. An Arrest Report should not be completed if a citation is issued.
- I. The citation and all reports and forms pertaining to the incident will be forwarded for supervisory approval.
- J. The Supervisor will ensure that the citation and reports and forms are checked for accuracy, completeness, and conformance with Department policy.
- K. 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., known repeat offender).
- L. If an Officer determines 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 Criminal Procedure Article, an Officer is authorized to 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 law the defendant cannot be lawfully arrested.
 3. The Officer will provide the complainant/victim with the suspect's I.D. information, the Case Number, and the procedures for applying for a charging document. The Officer will note this advice in the Incident Report.
 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 this jurisdiction, the citizen should be advised to respond to the PGPD station in the district of occurrence to have a report made.
 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.

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 an Incident Report will be written describing the incident.