

18.5 DYING DECLARATIONS

A. Members of the Department who investigate, or who are in charge of, homicide cases, will make every effort to obtain a dying declaration from the victim. The principal element to be considered in taking a dying declaration is the awareness of the person making the declaration of his or her medical condition.

B. In order for the declaration to be admissible in evidence, the person must have no hope of recovery. This fact should be given special attention, and the victim must be fully aware of this fact before a statement is taken.

C. The investigating officer will request the doctor in attendance to inform the person that he/she is at the point of death, if such be the case, and that the doctor sees no hope for his/her recovery. This must be done so that if a statement is made, its contents will leave no doubt in the mind of the court that the person making the statement was fully aware of his/her impending death, and had no hope of recovery. The dying person will be questioned as follows:

1. What is your name?
2. Where do you live?
3. Do you believe you are about to die?
4. How, and in what manner, did you receive the injuries from which you are now suffering?

D. The statement will be reduced to writing and signed by all witnesses present. If possible, the victim's signature should also be obtained. Answers to questions may be given by signs if the victim is unable to communicate verbally.

18.14 FIRES

NOTE: For procedures to be employed in responding to a fire at the Anne Arundel County Detention Center, see Article 23, "Emergency Conditions"

- A. Any member of the Department who becomes aware of a fire will immediately notify Communications. The officer will convey to the dispatcher the location, size and type of fire. The officer will arouse persons in the burning building and, if necessary, those in adjoining buildings.
- B. At any fire, the Fire Department is in full command. The mission of the Police Department at a fire scene is to assist the Fire Department in every possible way, to enable them to extinguish the fire as soon as possible.
- C. Members of the Police Department will ensure that no person hinders or obstructs members of the Fire Department in the performance of their duties.

18.14.1 RESPONSIBILITIES OF THE POLICE DEPARTMENT AT FIRE SCENES

Police will enter burning buildings only for the performance of a life-or-death law enforcement service. Fire rescue requires a high degree of training and technical expertise and should be attempted by untrained personnel only in the most dire circumstances.

A. PLATOON COMMANDER

- 1. The platoon commander will ensure that a sufficient number of police officers, supervisors, and reserve officers are detailed to the fire scene to accomplish the Police Department's mission.
- 2. If the fire is of such magnitude that it becomes necessary to implement the Disaster Control plan, the platoon commander will personally command the Police Department personnel at the scene until relieved by higher authority.
- 3. At fires where it is not necessary for the platoon commander to remain at the scene, he or she will designate a patrol supervisor or senior patrol officer, depending on the magnitude of the fire and the needs of the Fire Department, to supervise the police contingent.

B. SUPERVISORS AND PATROL OFFICERS

The police supervisor or officer in charge will ensure that the following actions are taken:

- 1. Establish a command post at a convenient and accessible point and inform Communications of the location.
- 2. Request and coordinate any necessary police reinforcements and the relief of officers assigned to the scene. Dismiss any officers no longer needed at the scene.
- 3. Maintain fire lines and exclude unauthorized persons and vehicles. The police supervisor or officer in charge will establish the traffic control points at a distance from the fire that will ensure control of the scene and free maneuverability of fire apparatus.
- 4. If a fire occurs in a business establishment at a time when the owner or occupant is not on the premises, the beat officer will request Communications to notify the owner or occupant as soon as possible. Adjoining property owners will also be notified when there is a possibility of damage by fire, smoke, or water.
- 5. After the departure of the Fire Department apparatus from the scene of the fire, the police officer in command will make arrangements to provide security for the buildings damaged by the fire, for the purpose of preventing unauthorized persons from entering, to protect remaining property, and to warn the public of any dangerous conditions.

18.14.2 FORCIBLE ENTRIES BY THE FIRE DEPARTMENT

A. Upon the request of the Fire Department, a police officer will be dispatched to a fire/rescue scene to assist or witness a forcible entry of a locked building by the Fire Department.

B. Once the Fire Department personnel have completed their mission and cleared the scene, the Police Department is responsible for securing the premises, or for standing by until the owner or representative of the owner arrives to take responsibility for the premises. The officer at the scene will provide all available information to the owner or representative.

18.15 DEMONSTRATIONS AND LABOR DISPUTES

18.15.1 DEPARTMENT POLICY

A. Every large assembly of persons is a situation which requires the attention of the Police Department. In any lawful assembly, officers must assure the basic rights guaranteed by the Constitution, including the right of free assemblage and freedom of speech. Equal consideration must be given to the safety of individuals, the protection of personal property, and the maintenance of the public peace.

B. Regardless of the purpose of a gathering of people, officers must maintain an impartial attitude toward enforcement of the law. Personal feelings must not be projected, and the officers must not side with either party or issue at hand.

C. Strikes, picketing, or public demonstrations of political belief are not violations of the law. It is the illegal acts which sometimes arise from such activities which are the concern of the police.

18.15.2 ENFORCEMENT OF LAWS AT LABOR DISPUTES AND DEMONSTRATIONS

A. DISTRICT COMMANDER

1. Prior to or at the beginning of a strike, labor dispute, or demonstration, the District Commander will identify and contact the leaders on all sides to obtain information and to explain the Department's policies and procedures.
2. It will be emphasized that the use of public sidewalks and roadways, the free access to public places, and the rights to enter and leave private premises are to be preserved. In cases where there is a denial of those rights, the Department will take prompt and impartial enforcement action.
3. The employment of professional bullies, thugs, or agitators by any party will not be tolerated. Unlawful conditions and acts that may ultimately lead to disorder and violence will be dealt with immediately.

B. PLATOON COMMANDER

1. Platoon commanders will exercise care that regulations in regard to picketing or demonstrating are interpreted fairly, and are in agreement with the police objective. Our most important obligation to the public is to ensure the safety of persons and property.
2. Pickets or demonstrators will not be permitted to interfere with the free passage of pedestrian or vehicular traffic, and will not be permitted to violate any law.
3. Platoon commanders will ensure the free and unobstructed use of the sidewalks and streets to the general public.
4. The number of persons involved in a strike or demonstration will be constantly monitored to prevent a situation where the participants outnumber the amount of police needed to maintain order.
5. Platoon commanders will provide intelligence data to the Deputy Chief of the Field Operations Bureau via the chain of command at regular intervals. Such information will include:
 - * Number of strikers involved.
 - * Opening and closing hours of business.
 - * Location of entrances, exits, etc.
 - * Cause of strike (to determine if hostility may exist).
 - * Manpower requirements.
 - * Police equipment needed.

C. OFFICERS ASSIGNED TO A STRIKE OR DEMONSTRATION

Impartiality in attitude, and in the enforcement of the law, is required of an officer assigned to strike duty. A firm, yet courteous manner, will be maintained. Orders will be issued courteously. If an arrest is made, it will be made swiftly. Persons arrested will be removed from the scene quickly to prevent any further disorder.

18.16 TELEPHONE MISUSE INVESTIGATIONS

If two or more incidents of telephone misuse are reported by a complainant, the investigating officer will:

1. conduct an investigation to attempt to identify the caller
2. instruct the complainant to maintain a log of all future calls, noting the date, time and content of the calls
3. prepare an incident report stating the facts and details of the investigation
4. provide the complainant with the case number
5. instruct the complainant to contact C&P Telephone Company Security to arrange for a record to be made of future calls to the complainant's telephone number
6. if a suspect is identified, conduct a follow-up investigation and place charges as appropriate

The officer's incident report will indicate that the actions stated above have been taken, as well as any pertinent results.

18.20 CONFESSIONS AND FORMAL STATEMENTS

The following requirements will govern the taking of most confessions and formal statements by members of the Department. See **section 18.19.7**, "Informant Statements" for specific instructions on the taking of statements from informants.

A. All confessions and formal statements will be reduced to writing and prepared in the first person in the language of the defendant. These will include the original and one (1) copy.

B. A written statement or confession must be prefaced with a statement to the effect that the defendant knows the official character of the officer or officers to whom he/she is making the statement; that he/she has been advised of any currently applicable Fifth Amendment rights or privileges; and that he or she is making the statement or confession freely and voluntarily, in the absence of any form of threat, promise, coercion, or duress. The name of the officer advising the person of his/her rights will appear in the heading.

C. The date and place where the statement is made will be shown and all possible details of the offense will be developed, particularly details which may be corroborated by other evidence.

D. All statements and confessions will be read and signed by the person making them; each page will be initialed by the maker and the police officers present. If the maker cannot read, the completed statement or confession will be read aloud to him or her prior to signature. If only one police officer is present, a witness will be present for the reading and signature of the statement or confession. The police officer(s) and/or witness will sign and date the statement at the end.

E. A witness to a signed statement or confession will initial each page and sign his or her name and title (or if no title, his or her address) at the end.

F. Any changes or alterations in statements can be made only by the person giving the statement, and will either appear in the person's own handwriting or will be initialed by him or her. Once a statement is adopted as final and complete it cannot be changed or altered. If the person giving the statement wishes to change it after it has been read and signed by him or her, a new statement will be taken and the person will be allowed to state his or her changes by making reference to the previous statement.

G. Whenever possible, statements should be recorded on audio tape, or on video tape with sound on. This procedure requires the express permission of the person giving the statement. The officer taking the statement will ask, on the record, if the person is aware that the statement is being recorded, and if the person consents to the recording of the statement. If the person replies in the affirmative to both questions, the statement will be recorded. In any other case, the recording will immediately cease.

18.24 ELECTRONIC EAVESDROPPING (CALEA 42.2.1)

A. No member of the Department, regardless of rank, will in any manner conduct, assist or participate in the electronic interception of communications (including what is commonly referred to as wiretapping) without the prior approval of the Chief of Police or a Deputy Chief of Police except as noted in paragraph G of this subsection. Such members will conduct the interceptions in complete compliance with all federal and state laws governing this investigative technique.

B. All requests or suggestions for interception of communications, applications to a court, court orders, tapes and recordings, reports and other records, writings or information concerning interception of communications will be considered confidential by every member of the Department, and all knowledge or information relating thereto will be restricted to those persons authorized by law and this order on a "need to know" basis. All matters relating to interception of communications will be conducted in such a manner and with such precautions as to ensure the confidentiality of the investigation.

C. Whenever a member of this Department who is investigating a complaint, or the possible existence of a crime, has reasonable grounds to believe that evidence of a crime may be obtained by interception of communications, he/she will promptly report the facts to his/her commanding officer.

D. A commanding officer, upon receiving such a report suggesting an interception of communications, will first satisfy himself/herself that such action is necessary and desirable in order to effectively secure evidence. If the commanding officer concurs in the request, he/she will require the subordinate to submit a detailed report concerning the facts of the case. The report and the request for interception will be forwarded to the Deputy Chief of Police commanding the Field Operations Bureau. The facts and contents of this report will be held strictly confidential.

E. The Deputy Chief, Field Operations Bureau, will review all requests for interception of communications and upon granting approval, will assign Criminal Investigation members trained in this investigative technique, to assist the requesting the member in this area. If scheduling does not permit C.I.D. personnel to assist in the interception, the Deputy Chief may forward the request, through the Office of the Chief of Police, to the Intelligence Section for their assistance.

F. All members shall be aware that Maryland State Law only permits the interception of communications during an investigation of the crimes of murder, kidnapping, gambling, robbery, bribery, extortion, arson, and narcotics violations, or any conspiracy to commit the foregoing offenses. It should also be noted that in certain situations court orders are not needed to intercept communications and these instances are specified in Md. Code, Article of Courts and Judicial Proceedings, Section 10-401 through 10-411.

G. The commander of the Criminal Investigation Division, C.I.D. section commanders, and the commander of the Intelligence Section are authorized to approve the interception of communications during the course of their investigations and will comply with all Federal and State Laws pertaining to the interception of communications. Use of this investigative technique will be noted in the case report and the recordings and other relevant items treated as evidence.

18.25 FIRE CODE VIOLATIONS AND AIR POLLUTION VIOLATIONS

18.25.1 ROUTINE FIRE CODE VIOLATIONS

Normally members of the Department will not respond to ROUTINE Fire Code violations. The Anne Arundel County Fire Department has the responsibility and enforcement powers to investigate such violations. However, officers who witness or have knowledge of Fire Code violations will notify the Anne Arundel County Fire Department in the following manner:

- A. Prepare and submit a written report containing all the necessary information observed and/or known concerning the possible fire code violation.
- B. Forward a copy to Fire Department headquarters to the attention of the Fire Marshall's Office.
- C. Be available to respond to questions from the Fire Marshall's investigator and to provide whatever assistance is required to resolve the violation.

18.25.2 HAZARDS TO LIFE AND/OR SAFETY

Fire code violations that present an immediate and serious hazard to life and/or safety will be handled in the following manner:

- A. Fire Department personnel will explain to the owner/manager/responsible party that they are in violation of Article 38A of the Annotated Code of Maryland and are subject to arrest for noncompliance.
- B. If compliance is not obtained, the Police Department will be summoned. The Fire Department personnel will explain the violation and the relevant section of the law to the police officer.
- C. If the owner/manager/responsible party still refuses to comply after a request by the police officer, the officer will place the owner/manager/responsible party under arrest, and will charge the person on a statement of charges with violating the applicable section(s) of the Annotated Code.
- D. If the situation warrants, additional charges of reckless endangerment (Md. Code, Article 27, Section 120) may be placed. This charge is appropriate when the violation presents a "...substantial risk of death or serious physical harm..." should the fire code violation continue.

18.25.3 AIR POLLUTION VIOLATIONS

Complaints involving air pollution violations are handled in the following manner:

- A. OPEN BURNING

Open burning complaints should be referred to the Fire Department, who may issue a warning for violation of Section 2-610 of the State Air Quality Act.

- B. ALL OTHER

Air pollution complaints other than open burning should be referred to the Air Quality Control Unit of the Anne Arundel County Health Department for follow-up (222-7364).

18.27 REQUESTS FOR BG&E SUBSCRIBER INFORMATION

If it is determined during the course of an investigation that subscriber information from BG&E is necessary, the following procedures will apply:

- A. The officer making the request must obtain approval from their immediate supervisor, who must concur with the need for the request. Every effort must be made to control the number of requests made of BG&E.
- B. After obtaining approval, the requesting officer will contact BG&E's Security Control Center by telephone at 234-5640 between 8:00 am and 4:00 pm to request the desired information. The information will not be provided directly to the officer at the time of the request. The information will be directed to the officer pursuant to the procedures outlined in paragraphs D and E of this section.
- C. The requesting officer will furnish their name, rank and ID number to the BG&E officials.
- D. BG&E will provide the requested subscriber information, during normal business hours, to the commander of the Narcotics Section, who will forward the information in a timely manner to the requesting officer.
- E. Receipt of after-hours subscriber information from BG&E will be the responsibility of the on-duty Communications Section supervisor, who will see that the information is directed in a timely manner to the requesting officer.

In an emergency such as an extraordinary police incident, BG&E can be called, at the direction of the incident commander, at any time.

18.28 SELLING ALCOHOLIC BEVERAGES TO MINORS OR INTOXICATED PERSONS

Selling or furnishing an alcoholic beverage to a minor, and sale and delivery of an alcoholic beverage to a subject under the influence of an alcoholic beverage, are violations of Article 2B, Section 118 of the Annotated Code of Maryland. The following procedures will be used:

- A. The officer will obtain the necessary information from the licensee and/or employee.
- B. The officer will apply to the District Court commissioner for a criminal summons.
- C. The licensee and/or employee will NOT be taken into custody for this violation.

18.29 SHOPLIFTING (ADULTS)

For shoplifting cases involving juvenile arrests, refer to Article 17, "Juvenile Operations".

18.29.1 GENERAL POLICY

- A. All warrantless arrests will be charged via a statement of charges (form DC/CR2) prepared by a police officer or a Maryland special police officer who is empowered to execute the statement of charges.
- B. Article 27, Section 594B provides that police officers may arrest without a warrant, based on probable cause, on certain misdemeanor offenses that did not occur in their presence.

18.29.2 ADULTS ARRESTED BY MARYLAND SPECIAL POLICE OFFICERS

- A. Maryland special police officers are commissioned by the State of Maryland and are issued identification cards. They have the Court's permission to complete a statement of charges on the scene for adults caught stealing any amount of goods.
- B. When an Anne Arundel County police officer responds to an adult shoplifter complaint and determines that the complainant is a Maryland special police officer, the officer will accept and transport the prisoner and the completed statement of charges to his district station, have the prisoner processed, and complete an incident report.

18.29.3 ADULTS ARRESTED BY STORE EMPLOYEES WHO ARE NOT MARYLAND SPECIAL POLICE OFFICERS

A. MISDEMEANOR (UNDER \$300) AND IDENTITY IS ESTABLISHED

- 1. Responding officers will obtain identification from the suspect and if the suspect's identity is established to the officer's satisfaction and the suspect is:
 - * a resident of Maryland, and
 - * not wanted as a result of an NCIC wanted check.
- 2. Show the complainant the suspect's identification and advise him to see a Court Commissioner for a warrant application. Advise the complainant that the charging document will be served at a later date. **DO NOT TRANSPORT THE SUSPECT.**
- 3. Write an incident report listing the suspect and documenting the date and time of the wanted check.

B. MISDEMEANOR, IDENTITY NOT ESTABLISHED

- 1. If the suspect has no identification or the officer has reasonable suspicion to believe it to be false, or the suspect is not a Maryland resident, **INVESTIGATE** the complaint to establish probable cause for an arrest.
- 2. Officers will obtain a written statement from the complainant to support the probable cause for arrest.
- 3. Upon establishing probable cause to believe the suspect did commit the offense, and that unless the suspect is immediately arrested, he may not be apprehended later; or he may cause injury to the person or damage the property of one or more persons; or he may tamper with, dispose of, or destroy evidence; the officer will arrest the suspect and transport to the district station (In accordance with Art. 27, Section 594B).
- 4. Officers will prepare a statement of charges based on their investigation and the written statement given by the complainant. Process the suspect and complete the required written reports and witness summons information. Have the suspect presented to the commissioner for disposition.

C. FELONIES (THEFT OVER \$300)

1. Responding officers will interview the complainant and determine if probable cause exists that a felony was committed and the suspect did commit it. Obtain a written signed statement from the complainant.
2. Arrest and transport the suspect to the district station. The arresting officer will prepare a statement of charges based on his or her investigation of the incident, and the information supplied by the complainant in charging the suspect.
3. Process the suspect, and complete the required written reports and witness summons information. Have the suspect presented to the commissioner for disposition.

18.30 EMERGENCY EVALUATIONS - MENTALLY DISTURBED PERSONS

18.30.1 DEFINITIONS

1. "Emergency Admissions" - Process by which an emergency admittee is admitted on an emergency basis to an emergency facility as defined herein.
2. "Emergency Treatment" - The treatment of an emergency admittee under the provision of the Health-General Article, Annotated Code of Md.
3. "Emergency Facility" - Any facility designated in writing by the Department of Health and Mental Hygiene as an emergency facility, and shall include all General Hospitals with licensed emergency rooms, unless exempted by the Department of Health and Mental Hygiene in consultation with the local Health Officer.
4. "Mental Disorder" - The behavioral and other symptoms which to a lay petitioner initiating the emergency admission process indicates a clear disturbance in the mental functioning of another person, and to a physician conducting an examination indicates one or more of the mental disorders described in the "Diagnostic and Statistical Manual- Mental Disorders" published periodically by the American Psychiatric Association.
5. "Peace Officer" - A sheriff, State Police Officer, municipal or other local police officer.
6. "Emergency Admittee" - A person who is proposed for admission to an emergency facility, or a person who has been admitted to an emergency facility pursuant to this section.

18.30.2 CUSTODY AND CARE OF MENTALLY DISTURBED PERSONS

- A. Mental disorder is not a crime. The police are expected in certain cases to take into custody a person alleged to be mentally disturbed, when necessary to protect him/her or others against bodily harm or violence. In addition, the police are responsible for assisting the family, friends, or relatives of such person, by providing appropriate referrals and in some cases actually petitioning for an emergency evaluation of the patient.
- B. An officer is justified in arresting an apparently mentally deranged person at any time or place, if he/she is satisfied upon investigation that some crime or injury may result, or has resulted from such a person being at large. Also, if an officer finds a person in a street or other public place aimlessly wandering about and apparently mentally deranged, although not violent, the officer is justified in taking the person into custody if he/she has good reason to believe that such person should be protected from harm or danger.
- C. In every case members of the family of the apparently mentally deranged person must be notified of the arrest, and they should, if possible, arrange for medical treatment. If the person cannot be identified, or the family fails to respond or cannot be located, the officer will take appropriate steps to have the subject evaluated, as described below.

18.30.3 EMERGENCY EVALUATIONS

- A. The following is a synopsis of the Health-General Article of the Annotated Code of Maryland, dealing with emergency evaluation of mentally disturbed people:
 1. There are three classes of persons who can petition for the emergency evaluation of a person suffering from a mental disorder: any interested person (such as a relative, friend, etc); a peace officer (which includes a County police officer); or a physician, psychologist, local health officer or designee.
 2. If an interested party is the petitioner, he/she must present the petition to a District or Circuit Court for an immediate review. If the court finds probable cause for emergency evaluation, the court shall endorse the petition and a peace officer shall transport the emergency evaluatee to the closest designated emergency facility. In Anne Arundel County, the designated emergency facilities are Anne Arundel Medical Center and North Arundel Hospital (NOT Crownsville State Hospital).

3. The peace officer may be the petitioner if, upon personal observation he/she has reason to believe that a person is mentally disordered and is in clear and imminent danger of causing personal harm to himself/herself or others. The peace officer does not have to go to court for review of his/her petition. He may take the emergency evaluatee to the designated emergency facility (Anne Arundel Medical Center or North Arundel Hospital) and the hospital must accept the emergency evaluatee "upon a properly executed petition."
4. If the petitioner is a physician, etc. he shall submit the petition to a peace officer who shall transport the emergency evaluatee to Anne Arundel Medical Center or North Arundel Hospital. Again, no court review is required of this type of petition.
5. The duties of a peace officer upon arriving at the hospital with an emergency evaluatee are as follows:
 - a. It is not the duty of the peace officer to assist after the assumption of responsibility for an emergency evaluatee by an emergency facility unless a physician at that facility shall request that the officer continue his/her assistance. Such request shall be addressed in the most expeditious manner to the peace officer's supervisor and in such case the officer shall remain until the supervisor has responded to the request.
 - b. The supervisor shall authorize the peace officer to remain when the emergency evaluatee is violent. When the peace officer is requested to remain at the emergency facility, it shall be the responsibility of the examining physician to examine the emergency evaluatee as promptly as possible.
6. Other important points to remember about this law:
 - a. No civil or criminal liability attaches to an officer who completes a petition in good faith with reasonable grounds.
 - b. The cost of transportation shall be billed to the evaluatee's medical insurance carrier.
7. Any person in custody who is found after examination to be all right, must be presented, along with the medical report, to the court prior to the conclusion of the next day's session.

18.31 ARRESTS OF MAIL CARRIERS OR PUBLIC TRANSPORTATION DRIVERS

Whenever any person engaged in the delivery of United States mail, or any person in charge of a public bus line vehicle, railroad engine, or train, commits a minor misdemeanor, while in charge of such vehicle or the United States mail, no arrest will be made immediately. The following procedures will be followed:

- A. The officer will charge the violator on a traffic citation or a criminal/civil citation, if possible; or,
- B. The officer will obtain the violator's name, address, employment identification number and supervisor's name. The officer will then apply to the District Court commissioner for a criminal summons charging the violator with the offenses observed.
- C. In either case, the officer will notify the defendant's employer of the facts, and make a written report of the circumstances to his/her commanding officer.
- D. If the crime is a felony or serious misdemeanor, such as driving while intoxicated, an arrest will be made immediately. In such cases the arresting officer will permit the prisoner to turn the mail or vehicle over to an authorized person, then take the prisoner to the appropriate police facility.

18.32 ARRESTS - MEMBERS OF THE ARMED FORCES

In all cases in which a member of any branch of the armed forces of the United States is arrested, the arresting officer will have Communications notify the duty officer (OD) of the arrested person's military installation, ship or base.