

12.1 On-View and Court-Ordered Arrests, Policy for Issuing Citations, Victim/Witness Rights, Eyewitness Policy

All citizens have basic rights which are set forth in common and statutory law, and the State and Federal Constitutions. Among these rights is the right of persons suspected of criminal acts to be protected from the abuse of police power. The Office will exercise the power of arrest in conformity with all applicable laws.

The term "arrest" as used in this order shall be interpreted as "taking into custody" when referring to juveniles.

12.1.1 Officer Limitations

Only deputies in good standing who possess current certification as police officers, or those who have been granted specific arrest powers by the Sheriff, may effect an arrest.

12.1.2 Memoranda of Understanding

Employees will comply with Memoranda of Understanding between the Sheriff's Office and other law enforcement agencies which define relationships, responsibilities, and limitations concerning arrests and related situations (see Chapter 1.3, Memoranda of Understanding, in this General Orders Manual). Absent guidance from an interagency agreement, deputies will abide by the requirements stated in the remainder of this order.

12.1.3 Warrantless Arrests

On-view or warrantless arrests will be made in accord with the statutory authority granted police officers in Maryland Criminal Law, Annotated Code, Criminal Procedure, Title 2, § 2-203. Situations when a deputy may arrest an individual without a warrant include:

1. When the deputy has probable cause to believe a felony or misdemeanor is being committed/attempted in his/her presence.

2. When the deputy has probable cause to believe a felony has been committed/attempted and probable cause exists that a specific person committed/attempted the felony.
3. Under the authority of the Maryland Police Team Rule (e.g., a deputy is advised via official communications that a person is wanted on an arrest warrant).

For those misdemeanors listed in Title 2, § 2-203 of the Annotated Code of Maryland, a deputy can make a warrantless arrest, provided there is probable cause to believe the person has committed the offense and unless immediately arrested, he/she may not be apprehended, may cause injury or property damage, or may tamper with, dispose of, or destroy evidence.

In domestic violence cases, deputies shall effect an arrest without a warrant if the deputy has probable cause to believe the abuser is the battered person's spouse or co-habitant, and there is evidence of physical injury.

Juveniles may be taken into custody under the guidelines stated above or otherwise enumerated in the Annotated Code of Maryland, Courts and Judicial Proceedings, Section 3-814 (Taking a Child into Custody).

12.1.4 Policy for Issuance of Uniform Criminal Citations

In compliance with the MPCTC Model Policy for Issuance of Criminal Citations, it is the policy of the Anne Arundel County Sheriff's Office that a Uniform Criminal Citation will be issued based on probable cause that the cited violation has occurred and in accordance with existing law. The race/ethnicity or gender of an alleged violator shall play no role in a deputy's decision on whether to issue or not issue a Uniform Criminal Citation. Members will be reminded of their legal responsibilities regarding the issuance of a Criminal Citation through periodic training.

It is also the policy of the Anne Arundel County Sheriff's Office that all Uniform Criminal Citations issued for violations enumerated in Maryland Law, Criminal Procedure Article, § 4-101 by agency personnel will be recorded in the agency's record management system and forwarded to the Maryland State Police each calendar year as required by law. Likewise, this agency shall review the data collected and submitted to the Maryland State Police as well as the annual report issued by the Maryland Statistical Analysis Center using the information as a training tool to foster non-discriminatory policing.

Nothing in this policy shall be construed to alter the authority of a deputy to make an arrest, conduct a search or seizure, or otherwise fulfill a deputy's law enforcement obligations.

Pursuant to Title 4, § 4-101 of the Annotated Code of Maryland, enforcement action regarding specific, qualifying crimes is limited to issuance of a Uniform Criminal Citation. Specifically, this law mandates, with certain exceptions, that a deputy will charge a defendant by a Uniform Criminal Citation for certain criminal offenses, in lieu of a statement of charges. The law also authorizes a deputy with the option to make a custodial arrest and process a defendant, prior to release upon his or her signature on a Uniform Criminal Citation.

Qualifying Criminal Offenses for Citations

1. Any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment;
2. Any misdemeanor or local ordinance violation for which the maximum penalty of imprisonment is 90 days or less; and
3. Possession of marijuana under § 5-601 of the Criminal Law Article.

Offenses That Cannot be Charged by Citations

1. Failure to comply with a peace order under § 3–1508 of the Courts Article;
2. Failure to comply with a protective order under § 4–509 of the Family Law Article;
3. A violation of a condition of pretrial or post-trial release while charged with a sexual crime against a minor under § 5–213.1 of the Criminal Procedure Article;
4. Possession of an electronic control device after conviction of a drug felony or crime of violence under § 4–109(b) of the Criminal Law Article;
5. Violation of an out-of-state domestic violence order under § 4–508.1 of the Family Law Article; and
6. Abuse or neglect of an animal under § 10–604 of the Criminal Law Article.

Criteria for Issuance of Citations

Although, the law mandates the issuance of a citation for qualifying offenses, a defendant must meet certain criteria to be released without approval by a District Court Commissioner. If the defendant cannot meet the criteria listed below, a deputy must charge the individual on a statement of charges. A deputy may charge a defendant by citation only if:

1. The deputy is satisfied with the defendant's evidence of identity;
2. The deputy reasonably believes that the defendant will comply with the citation;

3. The deputy reasonably believes that the failure to charge on a statement of charges will not pose a threat to public safety;
4. The defendant is not subject to arrest for another criminal charge arising out of the same incident; and
5. The defendant complies with all lawful orders by the deputy.

Procedural Options for Issuance of Criminal Citations

If a deputy determines that the defendant meets the elements cited directly above in “*Criteria for Issuance of Citations*”, two discretionary options exist as a means of concluding the incident by charging the defendant on a Uniform Criminal Citation:

Option 1 - If a deputy has grounds to make an arrest, based on probable cause, and the criteria cited in “*Qualifying Offenses for Citations*” applies, the deputy may make the arrest and conduct a search incident to arrest, before ultimately issuing a Uniform Criminal Citation and releasing the defendant upon his/her signature on the citation.

Option 2 - Under the same circumstances listed in Option 1, a deputy is also authorized to secure and transport the defendant to an applicable booking facility for processing. Upon completion of the booking procedure, the deputy will issue a Uniform Criminal Citation and release the defendant upon his/her signature on the citation, in lieu of continued custody.

Deputies are empowered with discretionary authority in the process of determining which above option best applies to the thorough investigation of a specific incident.

12.1.5 Warrants

The primary and most basic source of authority to arrest, recognized under common and statutory law is that of a warrant. The Fourth Amendment of the United States Constitution provides that “...no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.”

The term “warrant” as used in this regulation, and unless otherwise specified, is to encompass any judicial order authorizing the arrest, detention, or similar custodial relationship with an individual. This includes state and Federal bench warrants, arrest warrants, body attachments, juvenile detention orders, juvenile warrants, certain child custody orders, emergency evaluation petitions, parole retake orders, hospital warrants, fugitive warrants, and other such writs.

12.1.6 The Act of Arrest

An arrest is the act of depriving an individual of his/her freedom. No two people will react in the same way when faced with the prospect of incarceration. Every arrestee, regardless of the charge, must be considered dangerous. Deputies must exercise sound judgment and discretion so as to reduce the opportunity for injury to either the arresting officer or the wanted person.

When deputies travel into another county to execute a warrant or undertake a similar enforcement action, they must comply with accepted Office standards (see *Chapter 1.1, Authority, Organization, and Command*, in this General Orders Manual).

In every enforcement action, deputies must be prepared to protect themselves as well as others. Force may be applied to effect an arrest and must be in compliance with accepted Office standards (see Chapter 10.1, Use of Force, in this General Orders Manual).

In every arrest, the suspect must be informed of the deputies' intention to deprive him/her of certain liberties. Deputies will also be easily identified and/or identify themselves.

12.1.7 Prisoner Processing and Documenting Arrests

All investigatory and attempted service efforts will be documented on an attachment to the warrant. All arrested persons charged with a crime will be transported to and processed at an Anne Arundel County Police Department (AACOPD) District Station. There will be occasions on very minor misdemeanors that the booking process can be waived, with supervisory approval. Processing will be conducted in accordance with the rules and regulations of the AACOPD. The AACOPD will be responsible for the dissemination and retention of fingerprints, photographs, and other forms of identification. Any time a juvenile is taken into custody, his/her parent or guardian must be contacted.

Booking Prisoners/DNA Collection Kits: County Police Booking Officers are responsible for booking prisoners. This includes the collection of DNA, when required by the law, using a Maryland State Police Collection Kit.

1. If a County Police Department supervisor (Sergeant or above) is not present, a Sheriff's Office supervisor (Sergeant or above) will be required to be present during DNA collection of a prisoner, and will initial the Police District's DNA Collection logbook. The supervisor will ensure that the DNA sample is packaged correctly and placed in the DNA Collection Kit bin.

Note: Prior to a supervisor acting in this capacity they must complete DNA collection training provided by the Sheriff's Office of Training.

2. If a prisoner refuses to submit to a DNA test, the amount of force a Deputy can apply to assist in the collection of the DNA sample is subject to the following guidelines:
 - a. Physical force may be applied, if necessary, to get the sample. The same amount of force that is reasonable to arrest an unarmed person would apply to obtaining the sample.
 - b. Deputies will not do anything that overtly or intentionally endangers the prisoner or is physically harmful. However, deputies may physically restrain and immobilize the prisoner while booking officers obtain a DNA sample.

Note: Unless the deputy exhibits gross negligence, he/she is not civilly liable for their actions.

3. The midnight police supervisor of the district station will be responsible for the proper routing and delivery of the DNA kits to the Maryland State Police. Once the collection has taken place and the specimen is deposited in the DNA bin, the responsibility of the Sheriff's supervisor is concluded.

Non-criminal arrestees (e.g., child support body attachment or juvenile detention order) will be processed at the appropriate facility. The arrest information of non-criminal arrestees must be physically returned to the Office prior to the end of the arresting deputy's daily tour of duty. Any arrestee property is to be inventoried and handled in a manner consistent with Chapter 9.2.8, Prisoner Property, in this General Orders Manual.

Absent the existence of a prevailing detention commitment, all prisoners will be afforded a timely court appearance before a judicial officer within 24 hours of his/her arrest. Confidential access to legal counsel and access to a telephone will be provided for when possible. If telephone access is afforded, the detainee will be appraised of the existence of monitored or recorded conversations. Detainees will usually have access to telephone and legal services upon reaching their place of commitment.

12.1.8 Temporary Prisoner Detention Areas

If for some reason the appropriate or designated police/detention facility is not available to accept a detainee immediately upon arrest, a deputy may divert to an alternative location for the temporary detention of a prisoner (i.e., anywhere other than an accepted, recognized secure prisoner detention or holding facility). Daily law enforcement operations are often unpredictable, and it may be necessary to use a room, space, or area to separate persons under arrest, maintain control, wait for bonding, wait out a booking backlog, prepare paperwork for court, or similar delay. When detaining a prisoner in a temporary holding area, the principles of prisoner security and officer safety enumerated elsewhere in this General Orders Manual apply (e.g., Chapter 13.1, *Prisoner Restraint and Transport*, Chapter 13.2, *Prisoner Holding Areas*, and Chapter 13.3, *Search of an Arrestee or Prisoner*).

The transporting deputy remains responsible for the supervision and accountability of the detainee, and for securing authorization for the use of a temporary site. Non-recognized secure holding areas require that the deputy maintain continuous visual contact with the prisoner. Regardless of the temporary detention location selected, there must also be a sight and sound separation of males, females, and juveniles, and between any detainee and the public. In relatively un-secure areas that pose a significant escape risk, a deputy may hand-cuff or leg-iron a prisoner to a solid object intended for such uses. The deputy must also familiarize him/herself with building evacuation routes, and prisoner access to water and restroom use must not be unreasonably withheld.

12.1.9 Discretion and Alternatives to Arrest

Many instances of public contact will occur where an arrest may be made but should not be effected due to mitigating circumstances. Any decision by a deputy not to arrest should be made only after carefully considering whether an arrest would cause a greater risk of harm to the public than not arresting the offender. A decision not to arrest when there are grounds to arrest is, at times, considered a sound law enforcement practice. Employees should be particularly sensitive to juveniles, with an emphasis on the prevention and control of juvenile delinquency. Public empathy can be enhanced through careful use of discretion in the interest of avoiding ill-will. Should any questions arise concerning a particular situation, the deputy involved should confer with a supervisor.

Deputies may exercise discretion in certain situations to the extent that an alternative to an arrest may be employed to resolve a situation. Warnings, referrals, informal resolutions, summonses, and citations shall be considered approved

alternatives to arrest. Alternatives to arrest must respect the rights of the parties involved and must accomplish a law enforcement purpose.

In accordance with Anne Arundel County Code § 12-3-303, Authority to Issue Citations, Deputy Sheriffs I, II, III, and IV are hereby authorized by the Anne Arundel County Chief of Police to issue Anne Arundel County parking citations by adhering to the following policy in exercising this authority:

1. Personnel should be employed in one of the Deputy Sheriff classes, as defined in § 6-1-201 of the Anne Arundel County Code.
2. Deputies authorized to issue citations must be certified, by the Maryland Police and Correctional Training Commissions, as a law enforcement officer.
3. Deputies must adhere to the Anne Arundel County Police Department rules, regulations, and procedures specifically concerning Anne Arundel County citations, including Index Code 1903, Traffic Law Enforcement, sub-section O, Parking Enforcement listed below:
 - a. “...Non-emergency parking regulations, including tow away zones, time controlled zones, and handicapped parking will be enforced with reasonableness and impartiality in all areas of the county. Vehicles parking in fire lanes and vehicles parked illegally presenting an immediate hazard to traffic, will be ticketed and towed immediately...”
4. Under this grant of authority, Deputies are not authorized to tow and impound vehicles. If there is an imminent need to tow a vehicle, the Police Department should be notified.
5. Deputies must immediately forward all appropriate copies of citations to the Anne Arundel County Sheriff’s Office Traffic Enforcement Coordinator. The Sheriff’s Traffic Enforcement Coordinator must then forward these copies to the Police Department’s Central Records section within three days of the date on the citation.
6. If any training is deemed necessary by the Chief of Police, all deputies will comply with such training requirements.

(Relevant Law : Anne Arundel County Code § 12-3-303, Authority to Issue Citations; Anne Arundel County Code § 6-1-201, Classified Service; Anne Arundel County Police Department Index Code 1903, Traffic Law Enforcement, sub-section O, Parking Enforcement.)

12.1.10 Victim/Witness Rights

Employees are to periodically receive training on victim and witness rights. Whether incident to an arrest, telephonically, or otherwise, employees who come in contact with or are approached by a recent victim of, or witness to, a criminal act are to take appropriate immediate action to protect the welfare of the individual. The individual is then to be put in contact with the appropriate primary law enforcement agency (see Chapter 1.3, Inter-Agency Memoranda of Agreements, in this General Orders Manual). Victims of, or witnesses to, a past criminal act who are seeking assistance, to include those who have been threatened or intimidated, are to be directed to an organization best suited to address their concerns (e.g., the primary law enforcement agency, the Office of the State's Attorney, or a particular court).

As of October 1, 2006, the following changes were made to the forms below to reflect updated procedures for electronic and live access to Court records:

1. Application for Statement of Charges – DC/CR 1:
 - a. The witness information was removed from the form.
 - b. An advisement regarding shielding was added to the front of the form.
 - c. Information regarding shielding address and telephone number of a victim, complainant or witness was added to the back of the application for statement of charges.
 - d. Information regarding remote access blocking remote access to the address, telephone number, date of birth, e-mail address and place of employment of a victim or non-party witness was added to the back of the application for statement of charges.
2. DC/CR 1S (confidential supplement) was added to the law enforcement site.
3. Notice regarding DC/CR 1S was added to the DC/CR 92 (request for witness summons).

When a law enforcement officer submits an application for statement of charges to a commissioner, they will be advised of the right to shielding. If there is a victim or witness that an officer wants the commissioner to consider for shielding, he/she will file the DC/CR 1S form to request shielding.

If the commissioner grants shielding, the DC/CR 1S is placed in the confidential envelope and the clerk is notified. Shielding of victim or witness information remains in place unless the Court decides otherwise.

If the commissioner denies the request for shielding, the DC/CR 1S is placed in the open file. A party may file a motion with the Court to request shielding if the request has been denied by the commissioner, however, the information remains open unless the Court rules otherwise.

If an officer does not wish to have any witness information shielded, the DC/CR 92 (request for witness summons) may be used. This information will be considered part of the open record.

In jurisdictions where commissioners accept drop off, or applications submitted by mail or other proxy, a request for shielding (DC/CR 1S confidential supplement) must be attached to the application for statement of charges. The commissioner will consider the request and make a determination based on the information provided by the officer. Signature and reason for the request are required for the commissioner to make a determination.

The revisions are currently available using the law enforcement web site.

12.1.11 Eyewitness Identification Policy

The purpose of this policy is to establish guidelines for obtaining accurate eyewitness identification, consistent with the Annotated Code of Maryland, Public Safety, Title 3, § 3-506.

Eyewitness identification is one of many tools used by law enforcement in the investigation of crime. This investigative tool is vigorously challenged by defense attorneys. Therefore, it is critical that eyewitness identification be conducted in a professional, structured manner, and supported by written documentation and physical evidence. It is also important to point out that the responding officer may not be the first person to interview a witness. Reporting persons are witnesses, and they may have been interviewed once (albeit briefly) by a dispatcher or call taker. Those personnel should also be familiar with this policy to ensure that as much accurate information as possible is gathered during the initial report.

1. It is the policy of the Anne Arundel County Sheriff's Office to avoid any action that would be unduly suggestive during any eyewitness identification process.
2. It is the policy of the Anne Arundel County Sheriff's Office that all eyewitness identification be conducted in a structured, professional manner designed to clear the innocent as well as identify suspects in criminal offenses.
3. It is the policy of the Anne Arundel County Sheriff's Office that a criminal investigation will not be concluded or otherwise cease based solely on eyewitness identification. Investigations will continue until all physical evidence has been collected and examined, all witnesses identified, and all reasonable leads explored.
4. It is the policy of the Anne Arundel County Sheriff's Office that a witness will participate in one and only one type of eyewitness identification. The types of eyewitness identification are:
 - a. Viewing a Mug Book
 - b. Participating in the preparation of a Composite
 - c. Participating in a Show-Up
 - d. Participating in a Photo Line-Up
 - e. Viewing a Live Line-Up
5. It is the policy of the Anne Arundel County Sheriff's Office that any identification or non-identification of a suspect be documented in writing, along with any comments by the eyewitness concerning the identification or non-identification.
6. It is the policy of the Anne Arundel County Sheriff's Office that any photograph of an individual identified by an eyewitness be retained as evidence and handled as such.

Definitions:

1. **MUG BOOK:** A collection of photographs of previously arrested individuals known or suspected to be involved in certain type crimes. Mug Books are frequently used when there is no clear suspect and other reliable sources have been exhausted.
2. **COMPOSITE:** Renderings or recollections of a witness describing a suspect's appearance. Composites may be completed by an artist, computer program, or Identi-Kit which features a variety of different facial features.

3. SHOW-UP: The display of a single suspect to a witness in an effort to obtain an identification.
4. PHOTO LINE-UP: A display of a photograph of the suspect, along with filler photos of other individuals whose physical characteristics resemble the suspect's description or appearance at the time of the incident.
5. LIVE LINE-UP: A live display of the suspect, along with other individuals whose physical characteristics resemble the suspect's description or appearance at the time of the incident.

Relevant Law: Annotated Code of Maryland, Public Safety, Title 3 Law Enforcement, § 3-506