

Chapter 14 AUTHORITY AND JURISDICTION

POLICY

It is the policy of the Cecil County Sheriff's Office to have it's members know and understand the Authority and Jurisdiction under which they operate.

ESTABLISHMENT OF AUTHORITY

- The authority of the Sheriff is established under Article IV, Sub-Section 44 of the Maryland Constitution and by various state statutes.
- Members of the Cecil County Sheriff's Office draw their authority directly from the Sheriff as established under Common Law and as further defined by the Maryland State Legislature.
- The Sheriff may limit the exercise of these powers for good and sufficient reason.

OATH OF OFFICE

- All members shall be required to take an oath of office before assuming any duties.
- Only those members who have taken the oath of office and have met state law enforcement certification requirements as mandated by MPCTC shall have the powers of arrest.

DUTIES OF DEPUTY I SHERIFF

- The authority and general duties of a Deputy Sheriff are consistent with the member's training and assignment as designated by the Sheriff of Cecil County.

OFF - DUTY AUTHORITY WITHIN CECIL COUNTY

- An off-duty member is prohibited from taking official action in a personal dispute involving neighbors, friends or relatives, unless the member's involvement is necessary to prevent physical injury to others.
- An off-duty member is prohibited from taking official action while under the influence or impaired in the slightest degree by alcohol or prescription medication.
- An off-duty member operating an agency vehicle shall take action whenever:
 1. An emergency call is dispatched and the off-duty member is close to the call.
 2. When assistance is requested.
- Any official action taken by an off-duty law enforcement member shall be reported to communications for assignment of an incident number.
- Off-duty members are not obligated to engage in any official activity, if the action might jeopardize civilians.

OFF-DUTY AUTHORITY OUTSIDE CECIL COUNTY

- Off-duty law enforcement members outside of Cecil County may take the following official action:
 1. When intervention is reasonably believed to be necessary to protect life or prevent serious bodily injury to others.
 2. As a private citizen when the member reasonably believes a felony involving the use of force or threat of force is occurring in the member's presence.
 3. When a request for assistance is made by a law enforcement officer of another Maryland jurisdiction.
- Any action taken by the off-duty member outside the boundaries of Cecil County shall be reported to the on-duty shift commander as soon as practical and the incident shall be documented. An incident entry may suffice for this purpose, unless the action would have required a report if occurred in Cecil County.

AUTHORITY WITHIN MUNICIPALITIES OF CECIL COUNTY

- Law enforcement members may exercise police powers within the incorporated municipalities of Cecil County.
- Under normal circumstances routine law enforcement duties in a municipality shall be the responsibility of one (1) of the respective town police agencies.
- The service of civil and criminal process directed to the Sheriff shall be served and/or executed by law enforcement members of the Sheriff's Office within all municipalities of Cecil County.
- Assistance shall be granted to any town police officer making a request in accordance with established mutual aid agreements.

AUTHORITY ON FEDERAL PROPERTY

- A Sheriff's Office law enforcement member's authority is limited within federal property of Perry Point V.A. as follows:
 1. The service of civil and criminal process issued by a Cecil County court shall be conducted after clearance with the Judge Advocate General (JAG).
 2. Detention of a person for criminal and/or serious traffic violation(s) occurring in his/her presence, pending the arrival of appropriate Federal or military authorities.
 3. Action when the law enforcement member reasonably believes that immediate action is necessary to preserve life or prevent serious bodily injury to another.
 4. Cecil County Sheriff's Office still has concurrent jurisdiction as of 11-29-99
- Any action taken by a law enforcement member shall be reported to the on-duty shift commander as soon as practical.

UNRANKED MEMBER AUTHORITY

- An unranked member has no law enforcement or correctional authority beyond the authority granted under law to a private citizen.

LIMITED EXTRA JURISDICTIONAL AUTHORITY

- Deputy Sheriffs are granted limited State wide powers of arrest pursuant to Article 27 Sections 594B and 88B.
- Deputy Sheriffs are granted limited State wide powers in both civil and the criminal process of the law.
- Deputies shall notify the law enforcement agency in the jurisdiction in which they are serving papers as a matter of courtesy and or to request assistance if necessary. (Refer to Legal Process, Section 13)
- Limited Extra Jurisdictional Authority allows the use of police powers granted by law, in emergencies. For these purposes, an emergency is defined as a sudden or unexpected happening, or 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.

PERSONAL OWNED VEHICLES PROHIBITIONS DEPUTIES OF CECIL COUNTY

- Personal owned vehicles will not be used for enforcement of Maryland Laws. There is no insurance coverage for liability.
- There will be no enforcing the provisions of the Maryland Vehicle Law.
- Serving arrest warrants, unless in conjunction with the lawful exercise or jurisdiction under this authority and by order of the Director of Law Enforcement.

- There will be no enforcement of Maryland Criminal Law or Civil Law.

**COMPLIANCE
EXTRA JURISDICTIONAL
AUTHORITY**

- Members acting under EXTRA JURISDICTIONAL Authority shall:
 1. Abide by Agency rules and regulations.
NOTE: A violation of an Agency rule or regulation does not, and is not intended to, abrogate the legality of any law enforcement action taken pursuant to the authority granted by law.
 2. Serve in a full duty capacity, without restrictions or limitations.
 3. Carry their badge and identification card, and be suitably armed, unless circumstances dictate otherwise.
 4. Notify the local law enforcement agency with primary jurisdiction where the action took place.
 5. Notify the Cecil County Sheriff's Office Communications Center as soon as practical for notification of the member's shift commander.
 - The law and procedures governing arrest are of major importance to the deputy and to the community, which he serves. There is no function of the law enforcement, which concerns both groups more directly. Police employees of this Agency should make a thorough study of this phase of law enforcement for two reasons:
 - a. First, to insure against criminal or civil liability for any improper action taken.
 - b. Second, to properly perform the duties of the office to which they have been appointed.
 - A deputy must never make an arrest because he feels that his dignity was impugned by derogatory remarks made by a citizen. The deputy should feel himself immune to attempts to belittle his office; he should so conduct himself as to earn the approval, assistance and cooperation of citizens by being courteous and polite under all circumstances. When an arrest is made, the justification therefore must be of a sufficient nature to justify the action; arrests made simply to show authority or to vent personal feelings will not be tolerated.
 - Whenever a police employee of this Agency has occasion to call to the attention of a citizen a violation of any law, he should do so in a manner that will not cause resentment, and if practical, should explain the reason for his action, whether or not prosecution may follow. The deputy should bear in mind that, frequently, a warning to persons guilty of very minor offenses will be sufficient, and that arrest in such cases should not be made unless the violation is deliberate or repeated. Deputies should remember that they are not required at all times or under all circumstances to wait until a crime is committed to take action. The deputy has a responsibility to prevent crime; at times initiating action even though no arrest is effected.
 - Every person arrested has the right to inquire of the deputy the reason upon which the action is based and the deputy has the duty of informing the subject of the offense, but it is not necessary to explain the nature of the charges in detail.
 - Due to the extreme complexity of the laws of arrest, it is impossible to cite every circumstance and provide a specific policy. The information provided is an overview of the law with explanations of key elements. Court decisions are made daily which effect the actual application of the law of arrest. The Agency provides updated information through various communications. Personnel are encouraged to be familiar with all sources of information as they relate to the law as it has a direct impact on the performance of their duties.
1. Provisions of the law which define the circumstances under which a deputy may arrest must be strictly observed.

2-0 Authority to Arrest

2-1 Deputies are given the authority to arrest by Article IV Section 44 of Constitution of Maryland. The circumstances under which that authority may be exercised are defined in common law and The Annotated Code of Maryland, Article 27, Sections:

- a. 594B Arrest Without a Warrant
- b. 594C-1 Arrest of Persons Suffering From Certain Illnesses
- c. 594D Warrants of Arrest

d. 602A Fresh Pursuit

2-2 The Transportation Article, Section 26-202, further defines the circumstances when a deputy may arrest a person for violations of the Motor Vehicle Law.

2-3 No person may be arrested or detained by a deputy, except under authority of law. An arrest may be authorized either by a warrant, or without a warrant as prescribed by law.

3-0 Arrest Without Warrant

3-1 The law of arrest in Maryland exists in both common law and statutory form. The Annotated Code of Maryland, Article 27, Section 594B, deals specifically with arrests without a warrant. The police officer has the authority for a warrantless arrest when that arrest is for a felony; however, that authority is subject to specific limitations when the arrest is for a misdemeanor. The law specifies:

- a. 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 the view of such officer.
- b. A police officer may, when he has probable cause to believe that a felony or misdemeanor is being committed in his presence or within his view, arrest without a warrant any person whom he may reasonably believe to have committed such offense.
- c. A police officer may arrest a person without a warrant if he 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 his presence or view.
- d. A police officer may arrest a person without a warrant if he has probable cause to believe:
 - 1. That an offense listed in subsection e of this section has been committed, and
 - 2. That the person has committed the offense, and
 - 3. That unless the person is immediately arrested,
 - (a) He may not be apprehended, or
 - (b) He may cause injury to the person or damage to the property of one or more other persons, or
 - (c) He may tamper with, dispose of, or destroy evidence.
- e. The offenses referred to in subsection d. of this section are:
 - (1) Those offenses specified in the following sections of Article 27, as they may be amended from time to time:
 - (a) Section 8 (relating to burning barracks, cribs, hay, corn, lumber, etc.; railway cars, watercraft, vehicles, etc.);
 - (b) Section 11 (relating to setting fire while perpetrating crime);

- (c) Section 36 (relating to carrying or wearing weapon);
 - (d) Section III (relating to destroying, injuring, etc., property of another);
 - (e) Section 156 (relating to giving false alarm of a fire);
 - (f) Section 287 (relating to possession of hypodermic syringes etc., restricted);
 - (g) Section 342 through 344 (Theft) where the value of the property stolen was less than \$300.00;
 - (h) Section 33A (relating to breaking into a building with intent to steal);
 - (i) The common-law crime of assault when committed with intent to do great bodily harm;
 - (j) Section 276 through 313D (relating to drugs and other dangerous substances), as they shall be amended from time to time.
 - (k) Section 36B (relating to handguns); and
 - (l) Section 388 (relating to manslaughter by automobile, motor boat, etc.).
- (2) Attempts to commit the offenses specified in the following sections of Article 27 as they may be amended from time to time:
- (a) Section 8 (relating to burning barracks, cribs, hay, corn, lumber, etc.; railway cars, watercraft, vehicles, etc.);
 - (b) Section II (relating to setting fire while perpetrating crime);
 - (c) Section III (relating to destroying, injuring, etc., property of another);
 - (d) Section 342 through 344 (Theft) relating to stealing goods worth less than \$300.00;
 - (e) Section 33A (relating to breaking into a building with intent to steal); and
 - (f) Sections 276 through 313D (relating to drugs and other dangerous substances), as they shall be amended from time to time. Art. 27, Sec. 594B (Ch. 238 of 1970)
- f. For purposes of this section, the term "police officer" means any person who, in his official capacity, is authorized by law to make arrests and who is:
- (1) A member of the Cecil County Sheriff's Office; or
 - (2) A member of the Baltimore City police department; or
 - (3) A member of the police department, bureau, or force of any county; or
 - (4) A member of the police department, bureau or force of any incorporated city or town, except Baltimore City, which is a "qualifying municipality," as defined in Section 37 (a)(7) and Section 39 of Article 15A of this Code; or
 - (5) A member of the State Aviation Administration Police Force, or the Mass Transit Administration Police Force or the Maryland Port Administration Police Force of the Department of Transportation, or the Toll Facilities Police Force of the Maryland Transportation Authority; or
 - (6) A member of the University of Maryland or Morgan State University Police Force; or

- (7) A member of a police force for a state university or college under the direction and control of the Board of Trustees of State Universities and Colleges; or
 - (8) Appointed or given the powers of a special policeman employed and compensated by the State for the enforcement of law and the maintenance of order on State property; a member of the Annapolis Public Buildings and Grounds Security Force; or a member of the Baltimore Public Buildings and Grounds Security Force; or
 - (9) The Sheriff of any county or of Baltimore City and whose usual duties include the making of arrests; or
 - (10) A regularly employed Deputy Sheriff of any county and who is compensated by the county and whose usual duties include the making of arrests; or
 - (11) A member of the Natural Resources Police of the Department of Natural Resources.
 - (12) A Federal law enforcement officer who, in his official capacity, is authorized by law to make arrests, has the powers of arrest set forth in this section, if the officer is rendering assistance to a police officer as defined in subsection (f.), at the request of the police officer or in an emergency.
 - (13) A Federal law enforcement officer exercising the power of arrest under this section has the same legal status and immunity from suit as the police officer to which the law enforcement officer is rendering assistance.
 - (14) The State Fire Marshal or a full-time assistant of the Office of the State Fire Marshal has the same powers of arrest set forth in subsection (c.) as to offenses listed under 6 and 7 of this Article.
 - (15) The State Fire Marshal or a full-time assistant of the Office of the State Fire Marshal has the same powers of arrest set forth in subsection (d.) as to offenses listed under 8, 9, 10A, 11, and 156 of this Article.
- g. Nothing in this section shall impair any right of arrest otherwise existing under this code.
 - h. Nothing in this section deprives a person of the right to receive a citation for a traffic violation as provided in the Maryland Vehicle Law for a criminal violation, as provided by law or rule of court.
 - i. Nothing in this section shall alter the geographical area in which a police officer may act. Art. 27, Sec. 594B.

3-2 Persons other than police officers.

During times of public crises, disaster, rioting, catastrophe or similar public emergency, as defined in Article 41, Section 15B (b) (1) of this Code, and when public safety is imperiled, or upon reasonable apprehension of immediate danger thereof, the authority to make an arrest without a warrant as granted to police officers in Section 594B shall be granted to any person:

- a. Who is serving under a proclamation issued by the Governor, as provided in Article 41, Section 15B (c) of this Code, either:
 - (1) As a member of a law enforcement body, as defined in Section 594B (f) of this article, or
 - (2) As a member of the militia forces called into action by the Governor, as provided in Article 41, Section 15B (e) of this Code; or
- b. Who is serving as a member of the militia ordered into active service by the Governor pursuant to Article 65, Section 8 of this Code; or

c. Who may be a member of the armed services of the United States under orders to aid civil authorities of the State in enforcing law and order; provided, that this grant of authority shall not limit or impair the powers and duties of a member of the armed forces of the United States, or authorized any action incompatible with provisions of federal law or regulations.

3-3 A police officer may not, without a warrant, arrest a person he accused of having committed a misdemeanor if the misdemeanor was not committed in his presence, subject to certain exceptions.

a. One exception allows an officer to arrest a party without a warrant for a misdemeanor that was not committed in his presence, providing the misdemeanor was committed in the presence of another police officer who promptly relays the information to the other officer, and the arrest is made within a reasonable time of the receipt of information relayed.

b. Another exception provides a police employee with authority to charge a person with a violation of any of the offenses enumerated in Section 26-202 (Vehicle Laws - Citation and Arrest) of The Transportation Article.

3-4 Arrests for investigation only have been held to be illegal by the courts. A suspect or witness may be requested to provide exemplars for comparison, e.g. fingerprints, photographs, hair, blood, etc. or to submit to an interview. If such requests are voluntarily complied with, the suspect or witness has not been arrested and a Criminal Arrest Report should not be initiated. If, on the other hand, the suspect or witness refuses to provide the exemplar or to participate in an interview, his refusal is not per se probable cause for an arrest although it may, with other facts, be used to build probable cause. If there is a need for such an exemplar and the person does not choose to comply voluntarily, application should be made to the court, through the State's Attorney, State Prosecutor or Attorney General for the issuance of the appropriate court order.

4-0 Arrest With A Warrant

4-1 When an arrest warrant is placed in the hands of a deputy he is not bound to inquire into the particulars of the complaint, or whether any was made at all. If the warrant is in due form and issued by a person having a right to issue it, the duty of the deputy is to execute it without further inquiry, and the warrant will protect him.

4-2 An arrest warrant remains in force until it is returned or recalled by the issuing authority; even if the accused has been arrested and escapes he may be taken again on the same warrant, if it has not been returned. A return is an official statement ("cepi" which means "I have taken") by a deputy of what he has done in executing the command of the warrant. However, after a warrant has been returned, it has no validity.

4-3 A warrant must not be issued in blank with a view of later writing in the name of the defendant. Such warrants are absolutely void.

4-4 No person, other than the issuing authority, has the right to alter a warrant, because, if altered by a third party, it would not be the warrant issued by the authority who signed it.

4-5 The warrant should be signed by the authority issuing it, set forth the time and place of making it, the charge or offense, and be directed to the proper police employee, requiring him to bring the accused either generally before any commissioner or judge of the city or county where issued, or especially before the authority issuing it. The full name, or if it be unknown, a statement of the fact and a description of the person to be arrested must be given, but a mere formal irregularity upon the face of the warrant will not render the officer liable who serves it.

4-6 Promptly after his arrest and prior to release or incarceration, the defendant shall be given a copy of the warrant.

5-0 Exemption From Arrest

5-1 Law enforcement authorities of the United States must always treat foreign diplomatic and consular personnel with respect and with due regard for the privileges and immunities to which they are entitled under international law. However, appropriate caution on the part of law enforcement authorities should never escalate into a total "hands off" attitude in connection with criminal law enforcement actions involving diplomats.

5-2 Foreign diplomats who violate motor vehicle laws should be cited. Allegations of serious crimes should be fully investigated, promptly reported to the Department of State, and procedurally developed to the maximum permissible extent. Diplomatic immunity applies only to diplomatic agents, members of their administrative and technical staff, and to recognized family members. Immunity precludes arrest or detention (reasonable constraints may be applied in emergency circumstances involving self-defense, public safety or prevention of serious criminal acts), prosecution, entering of residences or subpoena. Members of a diplomat's service staff, consular employees and other lower level employees do not enjoy diplomatic immunity. When doubt exists regarding an individual's immunity, the Department of State Command Center of the Bureau of Diplomatic Security can provide verification at (202) 647-2412 twenty-four hours a day.

5-3 No person belonging to the organized militia shall be arrested on any process except such as may be issued by military authority, while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

5-4 United States Senators and Representatives shall in all cases, except treason, felony, and breach of the peace, be privileged from civil process during their attendance at the session of the respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

5-5 This protection from civil process to members of Congress is given by the Constitution of the United States, and that of the members of the State Legislatures is generally secured to them by the constitutions of the various states or by the common law.

5-6 While the Constitution of the State of Maryland makes no provision to exempt the State Legislators prosecution for words spoken in debate. However, neither U. S. Congressmen nor members of the Maryland State Legislature are privileged from arrest and prosecution for any criminal offense during their attendance at a session or in going to and returning from their respective houses. These offenses include any violations of the Transportation Article.

5-7 Ships of war belonging to foreign nations are exempt from the local jurisdiction of the country whose ports they are permitted to visit, but merchant vessels and their crews are not exempt.

1-0 Precautionary Measures - Arrest

1-1 In making an arrest, the deputy 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 deliver him safely to the installation. The following general rules should always be kept in mind whenever an arrest is made:

- a. Whenever feasible, deputies should obtain assistance to arrest a person known or believed to be armed or dangerous
- b. Guard against carelessness when making an arrest, shift the prisoner's every move. Be alert and treat every case individually
- c. Always consider the possibility of the accused being armed; take no chances whatsoever, even after the prisoner has been carefully searched

- d. Prevent the prisoner from putting his hands in his pockets at anytime. He should be warned against doing this immediately upon his arrest. Even the most seemingly innocent object may be used as an offensive weapon by the prisoner
- e. Never underestimate the person arrested; the apparently harmless may be the most dangerous
- f. Keep the prisoner before you; maintaining physical control. Never allow him to stand behind you, or at your side where he may seize your gun or instruments which could be used as weapons
- g. Avoid unnecessary conversation with a prisoner; give orders with authority, brevity and clarity
- h. Command the situation. Don't antagonize the prisoner or handle him with unnecessary roughness
- i. Whenever an arrested person is interrogated, fingerprinted, palmprinted, photographed, or subjected to a chemical test at a Sheriff's office, all personnel involved will secure their weapons with the Shift commander, in the weapons locker, or in some other locked secure location.
- j. Deputies will use the appropriate method of restraint, i.e., handcuffs, flexicuffs, etc. The method chosen should establish a safe atmosphere for the deputy considering the circumstances of the incident, behavior of the arrestee, etc.
- k. Arrested persons who are violent or have a propensity toward violence will be restrained with the issued violent prisoner restraining device to provide control and prevent injury to the person or the arresting deputy and prevent damage to Agency equipment, i.e., vehicle dashboard, radio, electronic equipment, etc.

2-0 Force in Making an Arrest

- 2-1 A police employee should use only such force as may be necessary to take the prisoner into custody, if, however, he is resisted he may repel force with force.

Police employees are not justified in striking or arresting a person who merely objects to their proper performance of duty, although a person who actually interferes with such performance of duty may be arrested. Deputies are not privileged to strike a prisoner who merely holds back but who is not otherwise resisting arrest. Deputies must always maintain control of their tempers and never allow themselves to be provoked by rude or uncivil language. However, if the offense is of an aggravated character, or any assault is made or attempted on their person, they are authorized to arrest the offender and charge breach of peace or assault as circumstances warrant. In every case where a prisoner is charged with an assault upon a deputy, a CIR must be submitted by the deputy involved. In most cases, a photograph of an injury sustained by a deputy should be taken and submitted with the CIR.

- 2-2 Whenever a prisoner is injured during an arrest or while in custody, a detailed report explaining the circumstances resulting in his injury must be submitted immediately through channels to the commander of the installation where the injury occurred. The commander will then forward it to the Internal Affairs Unit. In most cases, a photograph of an alleged injury sustained by a prisoner should be taken and submitted with the detailed report. Additionally, when the level of force used during an arrest, or while a suspect is in custody, is greater than that normally required to handcuff a suspect, each deputy who used such force will complete an CCSO Form , Use of Force Statistical Data Form. This includes, but is not limited to, the use of the following:

- a. chemical agents, such as, oleoresin capsicum;
- b. empty hand control techniques;
- c. other control technique used to subdue the suspect; and
- d. intermediate weapons, e.g., ASP Baton, PR-24 Baton, Stream or Kel Light.

Commanders will forward the CCSO Form to the Training Division.

- 2-3 After a deputy has made an arrest, he must not undertake to adjudicate the case, as that is the duty of others designated by law for that purpose. The deputy's duty is to deliver the accused to the appropriate facility as soon as possible.
- 2-4 A prudent deputy, in making an arrest, should always consider the enormity of the crime and the character of resistance, and use only such force as may be necessary to overcome any resistance and make the arrest.
- 2-5 The forcing of an outer door is generally so violent and dangerous a proceeding that it must never be resorted to except in extreme cases and when an immediate arrest is necessary. Except for fresh pursuit situations, doors will not be forced in arrest situations where the individual to be arrested is only suspected to be at a location which is not the property of the arrestee. Under these circumstances, a search warrant would be necessary to conduct a search for the individual to be arrested.
- 2-6 Even when a person is subject to arrest, he still has the right not to have the door to his home unnecessarily broken. He also has the right not to have strangers come into his house without advance warning. Further, unannounced entry into the house may result in unnecessary injury to the deputy by an occupant who believes he is exercising his right to protect his house from an unlawful entry.
- 2-7 Except in special circumstances, when making an arrest of a person in a building, the deputy should knock on the door, identify himself as a deputy there to make an arrest and demand that the person inside open the door. Only if there is no answer, or a refusal to open the door after a reasonable lapse of time, should the deputy enter without the door being opened for him. Even when he does enter on his own, the deputy should try to do as little damage as possible.
- 2-8 Exceptions to the above are where the arresting deputy has good reason to believe that making the announcement might help the suspect to escape, constitute a source of danger to other evidence. When he does enter without announcement and demand, it is imperative that he carefully record in detail in his report the surrounding circumstances and the reasons for this kind of entry so that he will be prepared to testify in court about it.
- 2-9 Failure to follow the general rule requiring announcement before entry, may turn an otherwise valid arrest into an invalid one and result in the exclusion of evidence as well as the civil or criminal liability against the arresting deputy.
- 3-0 Search Incident To An Arrest
- 3-1 The law permits the search of a lawfully arrested person to prevent the destruction of evidence, insure the safety of the arresting deputy and prevent possible harm to the arrestee or others. These areas are more thoroughly discussed in the section dealing with search and seizure.
- 3-2 Personnel shall, absent exigent circumstances, perform a thorough and systematic search of a person placed under arrest at the earliest possible time. Personnel shall make every possible attempt to effect this 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
- 3-3 Agency personnel taking temporary custody of a prisoner will, prior to transport, detention, interview or interrogation, conduct a search of the person regardless of a previous search.

- 3-4 When a prisoner is brought into a Sheriff' office, the booking shift commander will insure that the prisoner is searched in addition to the search at the time of arrest.
- 3-5 Search of Females - The arresting deputy will exercise the same diligence in searching female prisoners for concealed weapons or other dangerous instrumentalities 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. After the female is in custody and properly restrained, all subsequent searches will be conducted in conformance with the following policies:
- a. 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.
 - b. Civilian personnel will not normally be utilized to search prisoners and will not be ordered to do so. Any time a civilian employee conducts a search, a police employee shall be present to ensure the safety of the employee.
 - c. Strip searches will be conducted only in conformance with the rules set forth elsewhere in this chapter.
 - d. The search of body cavities will be conducted only in conformance with the rules set forth elsewhere in this chapter.
- 3-6 Agency personnel will not, unless absolutely necessary, visit prisoners of the opposite sex unless accompanied by a witness.
- 4-0 Transportation of Prisoners
- 4-1 When transporting prisoners every deputy will employ the proper restraining devices and methods as instructed by Training . The number of deputies present, the physique and stature of the arrested person, his reputation for violence, his conduct at the time of arrest, known arrest record or the lack thereof, will help determine the type of restraining device and restraining technique to be used. The safe delivery of the arrested person must be accomplished; however, the safety of the arresting deputy is the primary concern. Handcuffs and other devices are merely temporary controls and the arresting deputy must maintain a close guard over the subject at all times.
- 4-2 All individuals in custody will be restrained through the use of handcuffs or flex-cuffs utilized to the rear, except under the following circumstances:
- a. when precluded by physical deformity or injury
 - b. during a lengthy transport, such as across the state or through multiple jurisdictions
 - c. when prohibited by court order
 - d. when the arresting deputy determines that handcuffing to the rear would be detrimental to the exchange of information deemed necessary by the deputy.
- 4-3 When transported in a patrol car, the prisoner, if deemed advisable by the deputy, will be properly restrained and situated in the right front seat wearing the seat belt and shoulder harness. If more than one prisoner is transported, an additional deputy will sit behind the driver to increase security.
- a. In the future, all road patrol vehicles assigned to the Patrol Division that are utilized by personnel holding the rank of Sergeant and below are equipped with a violent prisoner restraining device. The device is kept in the glove box of each vehicle. The device consists of a red nylon rope with a clip on one end and a knot in the opposite end. Only Agency issued violent prisoner restraining devices are authorized to be used when necessary.

- b. Whenever a violent prisoner or a prisoner with a propensity for violence is transported, the violent prisoner restraining device will be used to secure such prisoners and provide control to prevent injury to the prisoner or personnel and to prevent damage to Agency equipment, i.e., vehicle dashboards, radios, electronic equipment, etc. The restraining device will be used in accordance with all procedures provided in initial and in-service training in its use as provided by the Training Division.
 - c. Personnel observing the knotted end of a red violent prisoner restraining device protruding from a vehicle door must be aware that a violent prisoner is restrained within. Therefore, should the need arise to extricate the prisoner from the vehicle, e.g., a vehicle accident, arresting deputy unconscious, etc., the presence of the knotted end of the red violent prisoner restraining device protruding from the vehicle door will alert personnel to use the utmost caution in extracting the prisoner.
- 4-4 Whenever possible, female prisoners who are in the custody of a male deputy, should be accompanied by two deputies when transported by patrol car. In all cases the female's name, time commencing the journey, odometer reading, location and destination must be reported by radio. Upon arrival at the destination, the time and odometer reading will again be recorded on the appropriate installation log.
- 4-5 A deputy having in his custody a person to be transported by commercial air transportation will adhere to the following Agency procedures:
- a. Notify the air carrier whether or not he is armed. If so the procedures outlined in subsection 4-6 of this section will be followed in addition to those listed below
 - b. Notify the air carrier at least one hour (in an emergency, as soon as practicable) before departure of the identity of the escorted person and the flight on which he will be carried
 - c. Notify the air carrier as to whether the escorted person is considered dangerous
 - d. Assure the air carrier that the person in his custody does not have on or about his person or property any article that could be used as a deadly or dangerous weapon and would be accessible to him while aboard the aircraft
 - e. Be equipped with adequate restraining devices to be used if he determines that restraint of the person in his custody is necessary
 - f. Assure that the escorted person is kept under his surveillance at all times
 - g. Airline regulations require a minimum of two police employees to escort a single prisoner and an additional police employee for each additional prisoner on the same aircraft
 - h. If the prisoner is considered dangerous, only one such prisoner will be transported on a single aircraft.
- 4-6 When the air carrier consents to transport the police employee and his escorted person, the police employee will adhere to the following procedures:
- a. Board with person in his custody before all other enplaning passengers board and deplane after all other passengers have left the aircraft
 - b. Be seated in the rearmost passenger seats that are neither located in any lounge area nor located next to or directly across from an aircraft exit
 - c. Assure that at least one escort sits between the person in his custody and any aisle

d. Assure no food, beverages or metal eating utensils are provided an escorted person unless authorized by the police employee

e. Assure that neither he nor the person in his custody consume any alcoholic beverage.

4-7 With the ever-present possibility of criminal or terrorist activities involving commercial aircraft, the Federal Aviation Administration (FAA) has established stringent procedures which govern the carrying firearms aboard aircraft. The specific authorization for carrying firearms is Section I21.585 of Federal Aviation Regulation (FAR) Part I21.

4-8 Whenever an armed police employee of this Agency has the occasion to travel by a commercial air carrier in an official capacity, the following procedures will be adhered to:

a. A letter on Cecil County Sheriff's Office letterhead to each air carrier will be delivered setting forth the specific circumstances that create the need to be armed during the flight. It will also specify the police employee involved, the trip itinerary and include a designated period during which the need to be armed in flight will exist. This letter will be signed by the employee's commander or his designee. The air carriers have the option of allowing or refusing the armed personnel to board their aircraft

b. The police employee will notify the commercial air carrier on whose flight he intends to carry a weapon at least one hour prior to the flight's departure or, in an emergency, as soon as practicable. Identify himself to a representative of the commercial carrier and present his credentials (his badge and Agency identification card)

c. He will not drink any alcoholic beverage while aboard the aircraft.

5-0 Fingerprints and Photographs

5-1 Fingerprints, palmprints and photographs will be taken EACH time an adult or juvenile is arrested for a criminal offense regardless of whether or not they are already on file, unless exempted by procedures contained elsewhere in this chapter.

5-2 The booking deputy will check and use a prior number if known. Where there is no prior Incarceration number, one will be assigned.

5-3 Persons not arrested who voluntarily consent to being photographed, fingerprinted, palmprinted, interviewed or who voluntarily submit some type of physical evidence for use in an investigation shall be identified by the case Complaint Control Number. A Master Criminal File Card containing the name of any suspect/witness, the CC Number and other pertinent information shall be completed.

5-4 Whenever any person is fingerprinted, palmprinted or photographed, including applicants, immigrants, etc., police personnel involved will secure their weapons with the Shift commander, in the weapons locker or in some other locked secure location.

6-0 Statement of Charges

6-1 Whenever a defendant is arrested without a warrant, the deputy in whose custody the defendant is placed for charging shall promptly prepare or shall supervise the prompt preparation of a statement of charges against the defendant. The deputy in whose custody the defendant is placed for charging shall insure the defendant receives a copy of the statement of charges prior to the defendant's release, incarceration, etc.

7-0 District Court Commissioner

Following the arrest and processing of an individual, he shall be promptly taken before a District Court Commissioner.

7-1 The commissioner shall receive applications and determine probable cause for arrest warrants. He shall advise arrested persons of their constitutional rights, set bond or commit persons to jail in default of bond or release them on personal recognizance if circumstances warrant. He shall also conduct investigations and inquiries into the circumstances of any matter presented to him in order to determine if probable cause exists for the issuance of a warrant and, in general, perform all the functions of committing magistrates as exercised by the justices of the peace prior to the establishment of the District Court System. At all times, one or more commissioners should be available for the convenience of the public and police in obtaining warrants and to advise arrested persons of their rights as required by law.

7-2 In any criminal case within the exclusive original jurisdiction of the District Court, a commissioner may, in lieu of issuing a warrant, issue a summons requiring the person charged to appear for trial at a specified time and place. The summons may be issued only if the commissioner determines that the public interest, including the safety of any prosecuting witness, does not require the arrest of the accused, and that the public interest does not require that the accused be placed under personal recognizance, bail bond or other security for his appearance. Each summons shall be signed by the person accused and shall include a statement of his promise to appear for trial at the time and place specified in the summons. If the individual named in the summons refuses to sign, this will be noted on the summons which will be returned through channels to the court for proper disposition.

7-3 If an accused is arrested on probable cause (without a warrant or other legal process) and subsequent information indicates that he was not, in fact, guilty of the crime, he should be released as expeditiously as possible. The incident will be documented according to Agency policy.

7-4 When a district court commissioner requests a computer printout (hard copy) of a defendant's Criminal History Record Information (CHRI), the arresting deputy will:

- a. initiate a computer check of the defendant's criminal record as soon as possible after the arrest
- b. ensure the commissioner's name is entered into the criminal record computer system dissemination log

8-1 Article 88-B, Section 25, Annotated Code of Maryland, makes provisions for the detention of prisoners who are to be held for periods of short duration by members of this Agency. It directs a "person having charge of a jail or other place of detention, unless sufficient facilities are not available, to receive and confine any person arrested from another county." Interpretation of the said section as it applies to detention, custody, and arraignment is set forth below for the guidance of all members of the Cecil County Sheriff's Office.

8-2 The purpose and limits of detention in public facilities are:

- a. Any person in the custody of this Agency may, prior to the time that a statement of charges is completed or a warrant is issued, be incarcerated in the local jail or other detention facility at the request of a police employee of the Agency
- b. The law does not create any new or greater right of arrest or detention. The purpose of the law is to make available to this Agency suitable public detention facilities when:
 - (1) Detention would be proper under existing law; but
 - (2) This Agency has no facilities of its own for such detention.
- c. There are three instances in which a member of this Agency may request such incarceration:

- (1) When a person is arrested in one county on charges pending in another county, and it is not immediately possible or convenient to transport the prisoner to the county where such charges are pending. The law permits detention of the prisoner until he can be transferred to the county where charges are pending
 - (2) When a person is detained for questioning or investigation. The Act does nothing to extend the rights of authority of a sworn member to detain a citizen for questioning or investigation; such detentions may only be based on probable cause or a court order. However, when such detention is permitted, the police employee is authorized to incarcerate such person at the jail
 - (3) When a person is arrested by a police employee without a warrant. Again, the law does nothing to enlarge the right of a police employee to make such an arrest. However, it authorizes the sworn member to deliver, and the sheriff or other custodian to receive, a prisoner until a warrant can be obtained. To give a common example, a person arrested during the night can be held until morning when a warrant is more readily obtainable.
- d. After a warrant has been issued and the person has been delivered to the jail in the county where the offense is alleged to have been committed, all provisions of Section 25 become inoperative; and detention thereafter is in accordance with the warrant.

8-3 Custody

Every person incarcerated by a police employee is deemed to be in custody of the Agency and must remain in custody until:

- a. A warrant charging a criminal offense or other process, such as a bail order, has been issued for him by a court of competent jurisdiction, or
- b. The prisoner can be returned to the county claiming jurisdiction in the case.

8-4 Until one of the above procedures has been complied with, any person so confined may be released only to, and upon the written order of, a police employee of the Agency.

8-5 Care of Prisoners

- a. Whenever a Deputy makes an arrest, or at any time has in his personal custody 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. If a prisoner escapes because of negligence or carelessness on the part of such deputy, it will be considered neglect of duty.
- b. When a prisoner is sick or injured, the arresting deputy will arrange for appropriate medical treatment. The Cecil County Sheriff's Office, however, does not assume financial responsibility for such medical treatment. Pursuant to Article 87, Section 46, Annotated Code of Maryland financial obligations incurred for medical services of persons in custody are assumed either by the patient or the county having jurisdiction.
- c. Hospitals or other medical facilities making such claims should be advised to seek reimbursement from either the patient or appropriate county. Insistent or continued claims will be referred to the Agency Legal Counsel .
- d. During hospitalization of a prisoner, a member of the Agency will be on guard in his room at all times. The commanding officer of the arresting deputy will be responsible for assigning guards. Guards will be responsible for the security of the prisoner; they will see that no one other than hospital staff communicates with him without first obtaining permission from the commanding officer.
- e. Under no circumstances will an unconscious prisoner be placed, or allowed to remain in a cell without medical treatment, even though the prisoner's condition may have been caused by intoxicants.

8-6.1 Prisoners will be given sufficient opportunity to communicate with relatives, counsel, bondsmen, or friends, and facilities will be made available for such communication. In those cases where it is deemed detrimental to an investigation to permit the prisoner to communicate with others, approval for such action must be given by the prosecutor..

8-7 Deputies will not converse unnecessarily with prisoners and will not address them in obscene or profane language. They will not mistreat them, nor use unnecessary force in handling them.

Such action will be cause for disciplinary action against the police employee.

8-8 Prisoners are to be made as comfortable as practical. Safe-keeping, not punishment, is the sole object of detention during the time they are in custody. Prisoners whose behavior would lead the shift commander to suspect they may harm themselves or that they have a medical problem should be observed closely. All prisoners should be checked periodically to insure their well-being. When practical, not more than one prisoner will be confined in a cell or detention room at one time. They will be given meals, by this Agency, at regular meal times. Such expenditures will be treated as emergency expenditures.

9-0 Detention Log

9-1 When a person is physically detained, (i.e. not able to leave of his own free will), a CCSO Form, Detention Log, will be completed by the deputy initiating the detention even if the person detained is not placed in a holding cell. This includes persons not brought to the installation of the deputy initiating the detention but only transported to another installation or police department, for example an F.O.A. The shift commander will complete a Form if extenuating circumstances prevent the deputy initiating the detention from doing so.

9-2 Entry shall be made in ink or typewritten. Commanders will be responsible for the accuracy of the Detention Log.

10-0 Detention Procedures

10-1 Receiving and Releasing Detainees -

- a. When detainees are received from a representative of another law enforcement agency, the Cecil County Sheriff's Office employee accepting the detainee will request identification of the person presenting the detainee and verification of that person's authority to make the detention.
- b. Prior to the release of a detainee, the shift commander will verify the identity of the person being released.

10-2 Visitors -

- a. When conditions within a barrack permit it, a detainee will be permitted visitors provided a police employee is present during the visit. Such visits will be limited to one person at a time. Visitors will be searched prior to visiting a detainee and will not be permitted inside a holding cell.
- b. Attorneys representing a detainee will be permitted in a holding cell provided a police officer is available to respond immediately when summoned.
- c. An entry will be made in the barrack log and on CCSO Form listing all visitors to detainees. All visitors will present some form of identification when requesting to visit a detainee.

10-3 Separation of Male and Female Detainees -

- a. Female and male detainees will be placed in separate holding cells if the holding cells are constructed so that the occupant of either cell cannot see into the other cell. When holding cells do not meet the above criteria, female and male detainees will be separated using other means, such as placing one person in a cell and handcuffing the other person to a permanent fixture in the deputy's room. Detaining a person will only be for the period of

time it takes to complete the paperwork necessary to have a detainee appear before a commissioner, transferred to another facility, or for interrogation. A person will not be detained for the sake of convenience, such as to give a police officer time to complete ancillary paperwork not associated with necessary charging documents and immediate processing.

10-4 Holding Facility -

- a. Commanders or designees are responsible for the daily operation of the holding cells within a facility and will be knowledgeable of the procedures and regulations for the following:
 1. placing a female or juvenile in a holding cell
 2. searching a holding cell
 3. searching a detainee
 4. obtaining medical treatment for a detainee
 5. permitting visitors to a holding cell
 6. entering an occupied holding cell
 7. inspecting all mail or packages for a detainee.
- b. Commanders will ensure that employees associated with the detainee process will be properly trained in the procedures and rules concerning same.

10-5 Security and Control for a Holding Cell -

- a. A holding cell and the detainee will be searched prior to placing a detainee in a holding cell.
- b. A police employee will be unarmed when entering a holding cell occupied by a detainee and, if deemed necessary, a second unarmed police employee will remain outside the cell but in full view of the cell.
- c. A holding cell door will be secured at all times when occupied or unoccupied.
- d. The shift commander will conduct and document weekly security inspections of a holding cell for weapons and contraband.
- e. Any tableware (knife, fork, spoon) metal or plastic, given a detainee with a meal will be retrieved immediately after a meal is consumed.
- f. If a detainee escapes, the shift commander will initiate a search for the detainee using the means available as he deems necessary, and inform the commander immediately thereafter.
- g. A detailed report will be forwarded from a commander through the chain of command on any incident that threatens the facility or any person therein.
- h. Where electronic audio and/or video equipment is used in the vicinity of a cell, it must be located so as not to deliberately violate a detainee's right to privacy.

10-6 Maintenance of Holding Cells -

- a. Maintenance work on a holding cell will not be conducted while occupied by a detainee.
- b. Holding cells will be cleaned and sanitized at least weekly.
- c. Procedures for control of vermin and pests will be performed as needed.
- d. All fire-related equipment and alarms and the maintenance and inspection thereof will be in

- a. In the event of a fire or situation requiring a facility to be vacated, the shift commander will ensure that all detainees are moved to a hazard free area. All assigned personnel will be familiar with the building exits in the event of an emergency.

10-8 Medical Attention -

- a. A first-aid kit will be available at all facilities. Supplies used from a first-aid kit will be replaced immediately or as deemed necessary. The first-aid kit will be inspected weekly and so noted in the log.
- b. The shift commander will arrange for medical treatment of detainees as needed.

11-0 Arraignment

- 11-1 All persons have the inalienable right to be promptly arraigned before a judicial officer of the State after arrest. Notification of the State's Attorney of an incarceration, so that arrangements can be made for a prompt hearing, is the responsibility of the arresting deputy. In cases of persons confined for more than twelve hours who have not been taken before a judicial officer, it is the responsibility of the sheriff, jailer, or person in charge of the place of detention, to immediately notify the State's Attorney of such situation.
- 11-2 Case law involving the Johnson Ruling requires an arrestee be presented to a judicial officer without unnecessary delay and, in no event, later than twenty-four hours after the arrest. This requirement may have significant impact on the discovery of evidence through interrogation, confession, etc. The Johnson Ruling is discussed later under interrogation.

INTERROGATION

1-0 Introduction

1-1 Questioning/interrogation of individuals has been the subject of many court cases. Many good investigations have turned bad because of improper tactics when introducing questioning. There are numerous "gray" areas involved, i.e. when does fact-finding become incriminating; what constitutes a custodial atmosphere; when must Miranda be utilized; when can a confession be used; etc. The result is experimentation, ignorance and confusion, having the potential for adverse effects on otherwise sound investigations. Experimentation may result in a favorable decision; however, this will receive thorough review by the courts. Experimentation must have a sound basis in fact. The investigator must be thoroughly versed in the legal and technical areas associated with interrogations before attempting new applications. The purpose of this section is to provide basic information to be used as a guide to Agency personnel; it is not intended to be all-inclusive. The Agency provides updated information and case law regularly through the Legal Briefs publication, affording timely notification of significant court decisions affecting investigative techniques.

2-0 Basic Rule

2-1 Information and evidence obtained as the direct result of questioning/interrogation may be significantly affected by the legality for that questioning/interrogation. Generally, information and/or evidence discovered during an improper/illegal interrogation is not admissible at the time of trial. Exceptions to this rule may be considered when information/evidence developed during an improper interrogation inevitably would be discovered during another phase of the investigation, or the same information is discovered from an independent source. These exceptions will receive significant attention at the time of trial. Police personnel are to properly carry out all phases of an investigation to ensure a successful conclusion.

3-1 The United States Supreme Court established specific guidelines to be used by police for interrogations. The Miranda decision is based on the fifth amendment to the Constitution of the United States, where an individual is protected against self-incrimination. (See definition of Miranda rights)

3-2 The Miranda rule applies to interrogation/questioning initiated by the police in a custodial, coercive, police-dominated atmosphere, where information, statements and confessions are sought and response would tend to incriminate the individual being interrogated/questioned. The Miranda warnings must be given when these conditions exist. A custodial environment is considered to exist:

a. When an inmate of a correctional facility is being questioned in relation to a situation which he/she is believed to have committed, but is not related to the charge for which he/she is presently incarcerated

b. When a non-resident is arrested for a traffic violation

c. When a Maryland resident is not entitled to receive a traffic citation for a violation of the Transportation Article

d. When the totality of the circumstances perceive a custodial environment. Circumstances which, individually or in combination, may infer a custodial environment are:

(1) Location

(2) Length of questioning

(3) Physical surroundings

(4) Number of police personnel

(5) Use of restraint devices

(6) Use/presence of weapons

(7) Age of the interviewee

(8) Required relocation of interview

(9) Presence of probable cause for arrest

(10) The subjective belief of the interviewee as to his status

(11) The focus of the investigation

(12) Language used by interviewers

(13) The extent to which the interviewee is confronted with evidence of guilt

(14) The proximity of the questioning and arrest

3-3 Miranda rights apply when custodial questioning/interrogation is initiated by police personnel. Agency personnel are not obligated to stop an individual who spontaneously offers information and/or a confession, regardless of the custodial situation. The courts have held that the police may inject an essential question for the purpose of clarification and/or keeping the individual from straying from the original topic. Should the situation gravitate to questions and answers, Miranda would be required.

- 3-4.1 Generally, Miranda is not required unless an individual has been arrested, or his freedom is restrained in any significant way, and is subsequently questioned in connection with his involvement

in the incident. The U.S. Supreme Court (Oregon vs. Mathiason) has ruled that police officers are not required to administer Miranda warnings to everyone questioned. Further, the Court has held that Miranda is not required solely because: questioning occurs at a police installation or because the person questioned is a suspect. Miranda warnings are required only where the person's freedom has been restricted, constituting custody. It is this custodial and coercive environment to which Miranda applies and should be limited. Some situations where Miranda, absent extenuating circumstances, should not apply are:

- a. Routine processing (fingerprinting, photographing and personal identification) based on reasonable grounds does not constitute a custodial interrogation
 - b. Emergency situations where a custodial situation exists and questioning is initiated in the interest of immediate public safety and the answers are voluntary, e.g., a suspect is arrested and immediate questioning is initiated to locate an explosive about to detonate, or a weapon that was discarded in a public place during the chase, etc.
 - c. Investigative detentions, e.g., stop and frisk. The longer a person is detained, the greater the responsibility for using Miranda.
 - d. Roadside questioning normally associated with traffic stops. This is not considered "custodial" due to the brevity and relatively non-threatening circumstances. An individual stopped for a violation of the Transportation Article for which a traffic citation may be issued and the individual is entitled to sign and proceed does not constitute a custodial atmosphere.
 - e. Other situations where the individual is not under arrest and/or is free to terminate the contact at any time. The individual must be aware/convinced of his freedom and this fact must be made part of the record.
- 3-5 Recent Supreme Court rulings have refined the application of Miranda dispelling the original interpretation where the police are required to advise individuals of Miranda rights in all situations where self-incriminating information is sought. The necessity of Miranda is significantly affected by the totality of the circumstances present and will be judged on a case-by-case basis. Personnel confronted with the decision as to the appropriateness of Miranda and who do not have the opportunity for legal advice should advise individuals of their rights prior to questioning.
- 3-6 For the Miranda warning to be effective, it must be understood by the individual being interrogated. Read the rights from the Miranda card (provided by the Agency); do not trust your memory. Speak distinctly, providing the opportunity to the person questioned/interrogated to listen and understand each right. Any questions should be cleared up before proceeding. The opportunity is present for the person being interrogated to use this as a ruse to stall for time. Should this be the situation, do not initiate questioning until the person consults with legal counsel, or unless advised to proceed otherwise by the State's Attorney.
- 3-7 An individual subject to interrogation who invokes any of his Miranda rights will not be questioned until he has consulted with an attorney and agrees to be questioned. Additionally, an individual who had waived his rights initially and during the interrogation wishes not to be questioned any further, will not be interrogated until he has consulted with an attorney and subsequently consents to additional questioning. The individual will be re-informed of his rights prior to any subsequent questioning; especially, when there is a significant break in the interrogation, change in persons present, change in location, etc.
- 3-8 After these warnings have been given and an opportunity to exercise these rights afforded, only the individual interrogated (including juveniles) may waive these rights. In order for this waiver to be effective, it must be done voluntarily, knowingly and intelligently. Any evidence that an individual was threatened, tricked or cajoled into a waiver, in whole or in part, may constitute an

involuntary waiver.

- 3-9 The parents of a juvenile subject to interrogation, cannot waive or invoke these rights for the juvenile.

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- 3-10 Only if a juvenile makes the request to see his parents will every attempt be made to permit this visit as soon as it is feasible, e.g. when the parents arrive at the installation. Parents or guardians will not be permitted to interfere with the investigative procedures.

4-0 Confessions

- 4-1 For a confession to be admissible at trial, it must have been given voluntarily. The Miranda warnings should be applied when a confession is solicited by the police. Additionally, the confession must be given absent any circumstances that may demonstrate an involuntary situation, or the confession, as well as evidence discovered as a result of the confession, would be inadmissible. The court will examine the totality of the circumstances on a case-by-case basis when determining if a confession was given voluntarily.

5-0 Waiver of Prompt Presentment - The Johnson Ruling

- 5-1 This ruling requires that an arrested individual be taken before a judicial officer (commissioner) without unnecessary delay and in no event later than twenty-four hours after the arrest or the first session of court following the filing of the charging document in the instance of a warrantless arrest. The effect of the Johnson Ruling is that any confession or statements made by the individual at the request of the police may not be admissible at trial.
- 5-2 Unnecessary delay may occur where the police have deferred taking the accused before a judicial officer without justification, even in cases where the presentment is within the required twenty-four hour period. The following are generally accepted as justification for delay:
- a. Routine processing procedures
 - b. Determining whether or not the charging document should be issued
 - c. Verifying the commission of the specified crime
 - d. Obtaining information likely to be a significant aid in averting harm to persons or loss of property of substantial value
 - e. Obtaining relevant non-testimonial information likely to be significant in discovering the identity of accomplices or preventing the loss of relevant evidence
 - f. The arrested party may voluntarily and knowingly waive the right of prompt presentment. This waiver would substantiate any delay and make admissible any statement/confession obtained prior to presentment. CCSO Form 46, Waiver of Prompt Presentment, is to be used for this purpose.

6-0 Securing Weapons

- 6-1 When a person is interrogated at a Sheriff' office, all personnel involved will secure their weapons with the shift commander who will store them in a place designated for that purpose. Should the interrogation take place at a location other than an CCSO installation, i.e. State's Attorney's office, jail, other police agency, etc., all weapons will be secured in a safe location. Should it be impossible to secure the weapon(s), extreme care for the safety of the deputy and the arrestee must be exercised.

7-0 Interrogation in Investigation

- 7-1 Interrogations/questioning/confessions must be considered as another piece of evidence in a total

investigation. Personnel should be cautioned against total dependence on this tool. At times, it may be the only evidence available. Information developed throughout. interrogation and/or confession should be corroborated to the extent possible by information and evidence available from other sources. If there is more than one suspect, information supplied by one about another must be substantiated by other information in order to be admissible.

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7-2 Interrogations, statements and confessions should be documented (sample interrogation guide included in this section), witnessed, and signed by the suspect and the interrogator. Each page of the document should be initialed by the suspect and the interrogator. Ideally, the document should be in the suspect's handwriting; however, a dictated and transcribed version is acceptable with the suspect having had the opportunity to read and sign as indicated above. The documentation should include a description of the suspect's mental, physical and emotional state at the time of the interrogation.

7-3 Interrogations should be conducted in a professional manner. Every attempt should be made to neutralize the atmosphere of the setting; reducing the chance of being accused of threatening, coercing, frightening, etc. the suspect under interrogation.

7-4 Interrogations of individuals of the opposite sex should be conducted with at least one additional police employee present; preferably of the same sex as that of the person being interrogated.

Interrogation Guide/Miranda

SAMPLE

CECIL COUNTY SHERIFF'S OFFICE
INTERROGATION GUIDE/WAIVER OF MIRANDA RIGHTS

Interviewer: _____ Page ____ of _____ PAGES

All others present: _____ Location: _____

Date: _____ Time: _____ Begin End
_____ (Include interruptions)

Waiver Of Prompt Presentment YES NO N/A
_____. You are now at (state location)
(name of interviewee)

_____ and I am (introduce interviewer)
and those present are (introduce all others present). You are
(record suspect's status, e.g., presently under arrest; here of your own free will and are

free to leave at any time, etc.) We would like you to tell what you know about (complete
with the nature of the incident) and to answer questions concerning that incident.

Before we begin, you must understand:

1. You have the absolute right to remain silent.
2. If you choose to answer, your answers can be used against you in court.
3. You have the right to a lawyer. If you want a lawyer and cannot afford one, one will be provided for you.
4. You have the right to talk privately with your lawyer before answering any questions and to

have him with you during the questioning.

5. If you elect to answer questions without having a lawyer present, you have the right to stop at any time and obtain the services of a lawyer.

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Q. Do you understand what you have been told concerning your rights (#1 thru #5) above?

A.

Q. Do you understand the conditions as to why you are here?

A.

Q. Do you understand that you are not being promised anything in return for your statement or answers?

A.

Q. Do you understand that no threats are now, or will be made against you to obtain your statement or answers?

A.

Q. Will the statements and information that you supply be given voluntarily; of your own free will?

A.

Q. Will you knowingly and freely waive your rights (indicate #1 thru 5 above) and consent to giving a statement and/or answering questions at this time?

A.

(Signature of interviewee-Date & time)

Q. Can you read and write?

A.

Q. How far did you go in school?

A.

Q. State your name, age and address.

A.

Q. At this time, will you tell us in your own words what you know of what happened on (date of crime) with reference to (State the substance of the crime being investigated)?

A.

(After completing his account, specific questions may be asked to solicit additional information.)

Q. Has anyone beaten, threatened, or intimidated you in any manner in order to obtain this information?

A.

Q. Has anyone made you any promises, offers of reward, or immunity, in order to obtain this information?

A.

Q. Then, has this information been given voluntarily and of your own free will and accord?

A.

(Read this statement to suspect and let suspect read it)

Q. Has this statement been read to you?

A.

Statement of

taken at

on (date)

at (hour)

Q. Having read it, or having had it read to you, do you want to make any changes or corrections in it?
A.

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Q. Is this statement the truth as you have told it?

A.

Q. Will you sign your name to it?

This statement, consisting of () pages,
is the truth as I have told it and I sign
my name to it.

Signed:

WITNESSED:

SEARCH AND SEIZURE

1-0 Introduction

1-1 The Fourth Amendment applies to federal law enforcement matters but its constitutional guarantees have been applied to all states through the "due process" clause of the Fourteenth Amendment.

1-2 Although knowledge of the constitutional provisions relating to search and seizure will not solve the everyday practical problems a deputy must face when he conducts a search or makes a seizure, it is the starting point with which he can determine the propriety of his intended acts. A deputy must always consider the reasonableness of the search, the probable cause to support the search, and, in seeking or executing a warrant, the particularity with which the persons, places, and items are described. If he does this with care, he can help ensure that his actions will be lawful and that the validity of the search and seizure will stand in a court of law.

1-3 Under this exclusionary rule, a search cannot be conducted in violation of the Fourth Amendment. That is, evidence obtained or confiscated during an unreasonable search and seizure cannot be used in any court (state or federal) as evidence against the person from whom it was improperly obtained.

1-4 All property or evidence seized or taken into custody by police employees will be handled and processed in accordance with Chapter 18, "Handling and Disposition of Property."

2-0 Probable Cause

2-1 The true test of any search is the demonstration that probable cause exists to justify the search. The basis for determining probable cause to search is essentially the same as that of probable cause for arrest. Probable cause to search is demonstrated by the existence of facts and surrounding circumstances which are sufficient to justify a man of reasonable caution to believe that an offense has been committed and that the particular property to be seized is relative to the offense and is located at the particular place. Reduced to its essentials, probable cause means that the deputy must have reasonable grounds to believe that things related to an offense are on the premises to be searched.

- 2-2 Searches may be conducted pursuant to the authority of a search warrant, upon receipt of proper consent, or in conjunction with the various exceptions to the warrant requirements, e.g., incident to arrest, vehicle searches, stop and frisk, abandoned property, etc. The Supreme Court has ruled

that, barring these specific exceptions, all searches without a warrant are unreasonable. Each exception to the warrant requirement imposes its own unique set of guidelines which must be followed.

3-0 Search Warrants

- 3-1 Search warrants will be issued only by judges of the Circuit Court and District Court of the State of Maryland. Once issued, a search warrant will:

- a. be directed to a law enforcement officer for service
- b. authorize the search of the individual, item, vehicle, building, thing, etc. specifically described in the warrant
- c. authorize the seizure of the item(s) described in the warrant as well as any other property found liable to seizure under the criminal laws of this state.
- d. be valid for a period of fifteen (15) days from the date issued
- e. be returned with a property inventory within ten (10) days of service to the issuing judge.

3-2.1 Generally, search warrants will be completed by a member of the Criminal Investigation Unit. Other members of the Office may apply for a search warrant, however, all applications must be reviewed by the Commander of the CID unit or his designee. Once reviewed by the Commander of CID, the application/affidavit will be presented to the Sheriff or his designee for concurrence. The application will be reviewed for substance and content to substantiate issuance of a search warrant. Assistance and review will be obtained from the office of the State's Attorney in compiling the affidavit. An operations plan will be presented to the Sheriff or his designee for approval before serving the search warrant.

The Cecil County Drug Task Force has unique policies and procedures in cooperation with the Maryland State Police and will abide by those procedures when dealing with search warrants. In all cases, including the Cecil County Task Force, notification to the Sheriff or his designee will be made before serving the search warrant.

- 3-3 When applying to a judge for the issuance of a search warrant, the applicant must present detailed information intent on establishing probable cause to believe the item(s) sought are in the possession of an individual or being held at a specific location. This document is known as the affidavit and will become part of the warrant. The affidavit contains a detailed synopsis of the facts at hand which establishes:

- a. the commission of a specific offense
- b. that certain specifically identified contraband/evidence/property directly related to the offense is being sought
- c. that the contraband/evidence/property sought is in the possession of an individual and the individual or the item(s) sought are contained in a specific container or at a specific location.

- 3-4 Facts which lead the deputy to believe that seizable goods are on certain premises can come from two sources, first, personal knowledge - what the deputy has observed and second, what others have observed and related to the deputy. Where the facts are within the deputy's personal

knowledge, he need only set forth in detail in the probable cause sections of the warrant the following:

- a. The dates and times he observed the facts
- b. The place where he observed the facts

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- c. Exactly what he observed (detail is most important here), and
- d. A brief synopsis of the deputy's experience and training.

3-5 When someone else tells the deputy the facts, it is necessary that he include in the affidavit the facts which caused the other person to believe that seizable goods are on the particular premises and, in addition, why the deputy believed what the other person told him. Since there are these two distinct types of information required when the affidavit is to be based on an informant's observations, such an affidavit will necessarily be more lengthy than one based solely on the deputy's personal knowledge. The probable cause section should contain the following information:

- a. The date the deputy was told the facts
- b. The name and address of the person who told the deputy the facts, except in the case of a confidential informant
- c. The date the other person observed the facts
- d. That the other person personally observed the facts
- e. The place where the other person observed the facts
- f. Exactly what facts (in detail) the other person observed
- g. An explanation of why the deputy believes that what the other person told him is true
- h. A brief synopsis of the deputy's experience and training.

3-6 Police employees are under no obligation to disclose the identities of their confidential informants in a search warrant affidavit. However, when a confidential informant's identity is not disclosed, it is especially important that the deputy explain fully why he believes that the facts related to him by the informant are true. To substantiate the informant's reliability, the following should appear in the probable cause section:

- a. The informant's past record for accuracy
- b. Whether valid arrests and convictions have been based on that information
- c. What facts the deputy has personally observed which corroborate the information related by the informant
- d. If appropriate, a statement by the informant indicating that he has committed or has participated in the commission of the crimes indicated.

Note: Give as much detail as possible without revealing the informant's identity. Where it is important to protect the identity of an informant, it is not necessary to specify the exact date upon which the informant received his information or performed some act which assisted in establishing probable cause for the issuance of a warrant. Such phrases as "...during the week of..." may be used.

3-7 It cannot be overemphasized that the deputy should include in the affidavit all information having any bearing on his conclusions. Be detailed; nothing should be left to the imagination of the judge. If space on the form is inadequate, add additional sheets. Each additional sheet should be numbered and signed. Time spent in attempting to list all of the relevant information is always

time well spent. It does not only insure the validity of the warrant, but it also gives the deputy an opportunity to decide if he has amassed sufficient information to justify issuance of the warrant. Very often the State's case will be only as strong as the affidavit. On finding of good cause, a judge may order an affidavit presented in support of a search and seizure warrant to be sealed for not more than thirty days in order to maintain confidentiality in an ongoing criminal investigation for violation of certain controlled dangerous substance laws. After the affidavit is unsealed, it must be delivered within fifteen days to the person from whom the property was taken or the person apparently in charge of the premises from which the property was taken.

- 3-8 Once issued, the search warrant will be executed by any authorized police employee to whom it was issued unless the warrant specifies it is to be served by the applicant or other individual. The police employee executing the warrant has the right to take necessary and appropriate actions to protect himself and others; assure that the item(s) sought will not be damaged, destroyed, removed, etc.; the search will not be inhibited; safeguard the scene; collect and remove property; make arrests; etc. The police employee executing the warrant shall use prudent judgement in developing the search procedures commensurate with the individual circumstances.
- 3-9 The use of good judgement in executing a warrant is as important as that used in obtaining one. An otherwise valid search can become unlawful if the warrant is not properly executed. The following procedures may be utilized when executing the warrant:
- a. Serve the warrant within fifteen (15) days of its issuance
 - b. The breaking of doors in execution of a search warrant is commensurate with those procedures established for the breaking of a door in execution of an arrest, as provided in Section III of this chapter
 - c. The search warrant will be read to the person in charge of the premises being searched, if such a person is present at the time of service
 - d. The search will include the place specified in the warrant, including all places reasonably and logically a part of that building, and everything therein where the lawfully sought articles might be concealed
 - e. Only the time necessary under the circumstances may be used to conduct the search
 - f. The deputy may seize only those items particularly described in the warrant and any other instrumentalities, fruits or contraband while properly searching for the things particularly described
 - g. A search warrant alone does not constitute authority for an arrest, but an arrest may be made on probable cause developed during execution of the search warrant.
 - h. A search warrant for a residence or other premises does not permit a search of all the persons present during the search. If probable cause is developed during the legal search to believe persons on the premises possess items which reasonably could be objects of the search, they may be detained until the proper search warrant is obtained. Regardless of the circumstances of the search, reasonable suspicion may justify the frisk of all persons present for offensive weapons.
 - i. An inventory shall be completed containing an accurate description of all property removed. All copies of inventory sheets shall be signed by the deputy executing the search and seizure warrant in the presence of the person from whom property was taken.
 - j. A copy of the warrant, affidavit, property inventory and return form will be left with the person in charge of the location searched. If no one is present to accept the paperwork, it will be left in a conspicuous location where it is reasonably protected from loss or damage.
 - k. Return the executed warrant and property inventory to the issuing judge within ten (10) days of execution.
 - l. All items taken into custody will be handled and processed as provided for elsewhere in the

manual.

3-10 Search warrants may be necessary to obtain evidence from a person, i.e. clothing worn, fingernail clippings, hair, body fluids, body cavity searches, etc. With this in mind, the following guidelines will be followed:

- a. If a deputy has adequate advance information that a person has or will have on his person items subject to lawful seizure, then he should get a search warrant. A deputy should not rely upon the person's consent as the authorization for the search.
- b. If a suspect or witness is asked to provide exemplars for comparison and he refuses, application may be made to the State's Attorney for a search warrant requiring the production of the desired evidence.
- c. If a person refuses to permit an authorized search, or if there is good reason not to search in public (a strip search, for example), a deputy may use reasonable force to detain him, or to take him to a place where the search can be appropriately conducted.
- d. To execute a search warrant for the search of a person, premises may be entered under the same circumstances and in the same manner as allowed in the execution of an arrest warrant, and reasonable force may be used to make the search.
- e. While a search may be made only for those things described in the warrant, if, while making such a search, a deputy comes upon some other evidence of this or any other crime, it may be seized.
 - (1) If a weapon is carried in violation of the law the deputy may take it.
 - (2) If a weapon is carried legally a deputy may still take it to protect himself but the person searched must be told where he can get it back.

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3-11 Exceptions to the general rule are:

- a. To avoid a possible loss of evidence, property which is under the temporary control of a deputy may be held while a warrant authorizing a further search is obtained. Moreover, in some such instances where probable cause to obtain a warrant does not immediately exist, the property may be held pending a reasonable brief investigation to determine whether there is in fact probable cause for a search warrant.
- b. In a recent Maryland Court of Appeals decision (Valdez vs. State), the courts held that an affidavit is not limited to a writing prepared by the affiant. The requirement may be fulfilled by the affiant swearing to the truthfulness and accuracy of a written statement, regardless of who prepared the document.

3-12 Generally, when there is sufficient time and no opportunity to tamper with, remove, destroy, conceal, etc. property/evidence, a search warrant should be obtained.

4-0 Search Incidental to an Arrest

4-1 A search incident to a lawful arrest is permitted to:

- a. Protect the arresting deputy and others
- b. Prevent escape or suicide
- c. Seize fruit, instrumentalities, and contraband relating to that arrest
- d. Prevent the destruction of evidence.

4-2 An arrest may not be used simply as an excuse to conduct a general search for evidence. When a deputy makes a valid arrest, he cannot use that arrest as an excuse to search the arrestee for

evidence of a different offense for which the deputy had no arrest warrant, probable cause to arrest, or no search warrant. Courts are particularly suspicious in cases involving searches incident to the arrest of minor traffic offenses.

4-3 The arrest must be lawful. If the arrest is unlawful for any reason, the incidental search of the arrested person is also unlawful, and any fruits of such a search will be inadmissible in court.

4-4 If practical, the arresting deputy should conduct the search. If a deputy arrests someone and does not search him, but later allows another person to search him, the subsequent search may be held unlawful.

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Note: Notwithstanding the fact that a prisoner has been previously searched, when he is transferred from the custody of a deputy, a subsequent search may be made for the protection of the receiving deputy.

4-5 Until an arrest has been made, there is no right to search. If the search precedes the arrest and supplies the probable cause for the arrest, the search is unlawful unless it can stand without use of the incident-to-arrest rule. But if a deputy has the right to arrest on a warrant or probable cause and he intends to arrest, but because of a sudden emergency or dangerous situation (e.g., possible escape of the person to be arrested or destruction of evidence) he first grabs the weapon, narcotics or other item, and then arrests, the seizure is lawful. This is an exception, however, and the courts will apply it strictly.

4-6 A search made incidental to an arrest must be conducted as soon as practical after the arrest. If it is not feasible to search immediately after making the arrest, a deputy should do so as soon after the reason for delaying the search has passed. This rule gives a deputy the right to search a person lawfully arrested only to protect himself, to prevent escape, and to prevent the destruction of evidence. If a deputy delays a search, it may appear that he was not concerned about any of those three possibilities and that he conducted the search for some other reason.

4-7.1 As a general rule, a deputy may search the arrested person, everything in his possession, and everything which, in the course of the arrest, is within his immediate reach.

- a. Anything in the actual possession of the person arrested may be searched (for example, a carton, suitcase, or purse being carried by the arrestee).
- b. The things within the reach of the person or within his immediate physical surroundings may be searched. In an emergency situation posing a danger to human life, the scope of the permissible search may extend beyond the person's immediate surroundings.
- c. A search for things within a body cavity may be conducted, only as prescribed by Agency policy.
- d. Where an arrestee has on his person some article showing ownership of or right to control personal property from which he is temporarily separated, (e.g., where the arrestee has a locker key in his possession and the arresting deputy wishes to search the locker) the deputy generally may not search for and seize such property unless there is danger that someone else will remove the property before a warrant can be obtained. Similarly, if in the course of an arrest a deputy observes a suitcase or other closed item in open view but not in the arrested person's actual physical possession, then the item may be seized as a protective measure, but a search warrant should be obtained before opening it.

4-8 Generally, anything in the possession of the person being searched may be subject to seizure, whether it be for evidence, the protection of the deputy, safekeeping, fruits of the crime for which the arrest was made, fruits and/or instrumentalities of another offense, contraband, etc. Additionally, a deputy lawfully on the premises as when legally effecting an arrest, observing contraband, fruits, weapon, instrumentalities or evidence of that immediate investigation and/or of an unrelated incident in "open view", may seize these items even though they may not be considered to be in the immediate possession of the person being arrested, and there is no

search warrant available. It must be understood that the "open view" doctrine is a seizing doctrine and does not in itself automatically constitute the authority for an additional search beyond the seizure of an item in plain sight.

- 4-9 When making a reasonable search of the person (whether incidental to arrest or with a search warrant) a deputy may use only that degree of force necessary to protect himself, prevent the escape of the searchee, and prevent the destruction of evidence. The test for determining if the use of force is proper is whether, in the deputy's judgement, he felt required to use such force to accomplish any of the previously-mentioned ends.

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Note: If an arrestee is concealing something in his mouth, a deputy may use reasonable force to prevent the person from swallowing the evidence and to remove the object.

5-0 Strip Searches

- 5-1 A strip search is defined as the removal or rearrangement of any clothing which permits a visual inspection of the genitals, buttocks, anus or female breasts, or undergarments of an arrestee.

- 5-2 A strip search should be considered only when the facts known to the deputy, or the observations made by the deputy, establish the reasonableness of a search of this extent, i.e., the necessity of viewing these intimate parts of the body and undergarments. Strip searches should never be routine and will be permitted only in the following situations:

- a. When the deputy has reasonable cause to believe an arrestee is concealing a weapon
- b. When the deputy has reasonable cause to believe an arrestee is concealing contraband
- c. Upon authority of a valid search warrant.

- 5-3 Strip searches must be approved by the employee's immediate commander or the shift commander. Strip searches shall only be conducted in a secluded, private area by a police employee of the same sex and will be done professionally and efficiently, showing care for the arrestee's privacy and comfort.

6-0 Search of Body Cavity

- 6-1 A search for things within a body cavity may be conducted upon authority of a valid search warrant or incident to a lawful arrest. Time permitting, a State's Attorney should be consulted before such a search when made incident to an arrest. The following conditions must be met before a search of a body cavity is permitted:

- a. There must be probable cause to believe that the person has within his body evidence which should be removed
- b. The search must be made by a licensed doctor or nurse working under sanitary conditions and in a medically approved way
- c. Force may be used only to the extent necessary to effect submission to the examination.

7-0 Seizure of Abandoned Property

- 7-1 If in the course of a lawful arrest (or other lawful action by a deputy, such as a surveillance or questioning of a person), a person discards personal property at some place outside his dwelling or its curtilage, a deputy may seize such property (even though it is then beyond the person's physical control) on the grounds that it has been abandoned.

- a. To constitute an abandonment for this purpose, there is no requirement that the person intended

to get rid of the property permanently.

- b. If the property is discarded in response to an unlawful arrest or unlawful entry by a deputy, a seizure of the property is also unlawful.
- c. If the property is discarded in the person's dwelling or its curtilage (or in his hotel room, automobile, or any other area he controls), it cannot be considered abandoned and cannot be seized. However, if the property thus discarded can be identified on sight as evidence of a crime, it can be seized just as any other evidence in open view can be seized.

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7-2 Examples of Legally Seized Abandoned Property:

- a. A package of heroin picked up from the street after a scuffle during an arrest in an automobile
- a. A package of narcotics which landed in a public courtyard after being thrown out of the window of an apartment by a woman under surveillance
- c. An envelope dropped to the floor of the police station by a man under arrest
- d. Two small packages dropped to the sidewalk by a narcotics suspect under surveillance
- e. An object dropped on the street by a man stepping out of his car for questioning.

8-0 Stop and Frisk

8-1 This expansion of a constitutionally permissible search, permits a police employee to conduct a carefully limited examination of an individual's outer clothing. The purpose of the examination is the discovery and seizure of offensive weapons, i.e. handgun, dirk knife, bowie knife, switchblade, sandclub, metal knuckles, razor, nunchaku, or any other dangerous or deadly weapon(s) concealed upon or about the individual. This search is permitted when:

- a. it is reasonably suspected that an individual has committed, is committing, or is about to commit a crime; or
- b. the individual is reasonably suspected to be armed and dangerous and immediate action must be taken to protect the member or the public.

8-2 Both the "Stop" and the "Frisk" must be supported by reasonable and articulable suspicion; an unparticularized suspicion or "hunch" will not suffice.

8-3 The following circumstances may be considered by the deputy in determining whether sufficient reasonable suspicion exists to justify a stop. This list is not intended to be all-inclusive.

- a. The appearance or demeanor of the suspect
- b. His actions
- c. The hour
- d. The neighborhood
- e. Bulges in the suspect's clothing which may suggest a concealed weapon
- f. The appearance of objects the suspect may be carrying
- g. The suspect's proximity to a known crime scene

h. Prior knowledge of the officer including

- (1) Suspect's prior record
- (2) Information from an informant or third party
- (3) Any overheard conversation

8-4 Once sufficient reasonable suspicion is established and the deputy decides to initiate the stop, he will:

a. Be clearly identified as a police officer:

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- (1) By being in police uniform, or
- (2) If not in uniform, by announcing that he is a deputy and at the same time displaying his badge or other police credentials

b. The deputy should display courtesy in his contact with the suspect

c. Every consideration must be shown for the rights of the suspect

d. Question the individual stopped to discover his name, address, and an explanation of the suspect's actions.

(1) The suspect may not be compelled to supply the answer to these or any other questions.

(2) If the suspect refuses to answer the deputy's questions or identify himself, he may be questioned further but may not be unduly detained nor may he be deprived of freedom of movement in any significant way unless the deputy is prepared to make a formal arrest in accordance with the legal requirements for an arrest.

(3) The failure or refusal to answer questions, or answers considered unsatisfactory are not alone sufficient to constitute probable cause for an arrest without a warrant there must be some independent justification. The failure or refusal to answer questions does not bar a "frisk," if the deputy reasonably suspects danger to his own or another's safety.

8-5 In determining whether reasonable suspicion exists sufficient to support the "frisking" of the suspect, the following factors may be considered:

- a. The type of crime suspected--whether or not a crime of violence or a crime involving the use of a deadly weapon
- b. Reasonableness of the deputy's fears for his safety or the safety of others. Where the deputy must deal with more than one suspect, or where the deputy does not have help close at hand, the situation may create increased danger
- c. The hour
- d. The neighborhood
- e. Is the suspect known to the deputy? Does he have a record? Is he disposed to violence?
- f. The appearance or demeanor of the suspect
- g. Bulges in the suspect's clothing which may suggest a concealed weapon
- h. Age and sex of the suspect

- i. Any other information perceived by the deputy bearing on the suspect's potential for violence.
- 8-6.1 When the deputy has knowledge or information regarding one or more of the above factors or another information sufficient to justify reasonable suspicion that the person stopped is presently in possession of an offensive weapon, he may frisk him. The frisk that is permissible is limited to a patting down of the suspect's outer clothing for the discovery of such weapons and for no other purpose. If the frisk fails to disclose evidence of an offensive weapon, no further search may be made. However, if the frisk indicates reasonable suspicion that the suspect has an object on his person that could be a weapon, the deputy is authorized to search that part of the suspect's clothing containing such object, but he may not search any further.
- 8-7 If the object felt and found in the course of the frisk is in fact an offensive weapon and the evidence is that the possession thereof violates the law, the deputy may arrest the suspect committing
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a crime in his presence. Incident to such a lawful arrest, the deputy may make a further, more detailed, search of the suspect and his immediate surroundings. On the other hand, if the deputy searches in or beneath the clothing of the suspect in the belief that an object felt in patting him down is a weapon and it turns out not to be a weapon but an item of contraband or evidence of a crime, the object may nevertheless be used to justify arrest of the suspect.
- 8-8 Every police employee conducting a stop and frisk pursuant to this Section shall, within twenty-four hours after such action, complete the top portion of a Firearms Report, , as well as any related field reports necessary as the result of the stop and frisk. A copy of all such reports will be forwarded through channels to the Superintendent or his designee. If a handgun was discovered to be carried, legally or illegally, the Firearms Report will be forwarded to the Licensing Division, Handgun Permit Unit, who will complete the remainder of the form and return it to the employee. Upon receipt of the completed Form 97, a copy will be sent to the Superintendent or his designee as stated above.
- 8-9 Any police employee sued in a civil action for conducting stop and frisk or which is alleged to be unreasonable and unlawful shall, upon his request, be defended in said action and any appeals therefrom, by the Attorney General.
- 9-0 Search of Premises
- 9-1 A deputy may search premises without a warrant in the following situations:
- a. Emergencies - A deputy may search if there is no time to get a warrant and the situation requires immediate action, e.g. when he hears a scream from inside a house followed by a gunshot
 - b. Hot Pursuit - He may search if he is chasing an escaping suspect or is about to catch up with one who is ready to flee
 - c. Contraband - He may search if he knows that contraband is threatened with immediate removal or destruction
 - d. Incidental to a Valid Arrest - He may search in the course of a valid arrest if necessary to protect himself, prevent the escape of the arrestee or to seize evidence relating to the reason for which the arrest is made that is within the actual or constructive possession of the arrestee.
 - e. Plain view doctrine - When contraband and/or evidence is observed by a deputy who is legally present at a location, i.e. serving an arrest warrant, investigating an incident, etc.
 - f. Consent search - (discussed later in this Section.)
 - g. Abandoned property - A dwelling that has been permanently vacated, i.e. hotel room, rented space, etc., may be searched without a warrant and without the permission of the previous

tenant. The consent of the property owner or agent should be obtained.

- h. Open fields - Under certain conditions "open fields", even though privately owned, may be searched without a warrant. In *Oliver vs. U.S.*, The Supreme Court held that "open fields" do not enjoy the same reasonableness as to privacy as does a home, office, commercial structure, etc.
- i. Observation of a dwelling or its curtilage may be made without a warrant from any place outside the curtilage. A telescope, binoculars, flashlight, and similar devices may be used in such a surveillance, as long as there is no physical trespass onto the curtilage.
- j. Listening to conversations or other sounds occurring in a dwelling or its curtilage may be accomplished without a warrant if there is no physical trespass onto the curtilage and if no electronic or mechanical device is used to hear the conversation or sounds. If a physical trespass is necessary, or if an electronic or mechanical device is necessary, a warrant must be obtained.

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9-2 The above situations are the exceptions to the rule and searches made under such circumstances will be closely reviewed by the court as to their propriety. Generally, in situations other than those indicated, a search warrant should be obtained to conduct a search of a dwelling and/or its curtilage.

9-3 The following information is provided to assist personnel when establishing the limitations of the search of a dwelling.

- a. A dwelling includes any place intended to be occupied by people to include: private residences, apartments, hotel/motel rooms, places of business and offices
- b. "Curtilage" is the open space associated with the dwelling. Whether an area is within the curtilage depends principally on its closeness to the dwelling, its being within any general enclosure which may surround the dwelling, and its use by the occupants of the dwelling. If there is doubt as to whether the place to be searched is within the curtilage, a warrant should be obtained. Examples of places considered to be within the curtilage include:
 - (1) An enclosed backyard of a residence
 - (2) A farmer's barn separated by a driveway from his house seventy yards away
 - (3) A trash can under the stone porch of a house
 - (4) A closed cupboard in a common hallway leading to the suspect's apartment in apartment building.
- c. When conducting a lawful search, a deputy may look for weapons, contraband, fruits of a crime, instrumentalities of a crime and other evidence. The Supreme Court has held that there may be some evidentiary materials which are not seizable or admissible into evidence under the Fifth Amendment because they are testimonial or communicative in nature.

9-4 Search of Premises Incidental to Arrest

- a. In the course of a lawful arrest, a deputy may search not only the arrestee's person, but also a limited portion of the premises which is within the arrestee's immediate control and from which he might be able to reach a weapon or destructible evidence. The area to be searched may be expanded if there is cause to believe there may be other persons on the premises who may reasonably be expected to interfere with the arrest or attempt to destroy evidence. A search of the surrounding area for such persons may be made. The sole justification for such a search is to find and seize:
 - (l) Any weapons the arrestee may seize to resist the arrest or to effect an escape

(2) Any evidence the arrestee might try to conceal or destroy

(3) The protection of the deputy and others present.

b. If while making a lawful arrest, or making a protective search for other persons on the premises, evidence of any crime is seen lying in open view it may be seized even though it is beyond the arrestee's immediate control.

c. If an arrest is effected at a certain place or time as a subterfuge to conduct a search of those premises, the search may be invalid.

c. Since a search incident to an arrest is very limited in scope, it is better to secure a search warrant at the same time that the arrest warrant is issued if a detailed search is to be conducted. When this is not possible, or when a warrantless arrest is made, a search warrant should be applied for immediately after the arrest. It is proper to allow a deputy to guard the premises to prevent the destruction of evidence while the warrant is being secured.

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9-5 Crime Scene Searches

a. Entry and subsequent warrantless search of a premises is permitted in emergency situations when there exists reasonable belief that there is within a need for immediate assistance. (Thompson v. Louisiana 105 U.S. S.CT. 409 (1984). Further, law enforcement personnel at the scene of a homicide or similar serious offense may conduct a warrantless search to locate victims and/or suspects (Mincey v. Arizona 437 U.S. 385 (1978).

b. The scope of the search is strictly limited by the existence of the emergency exigent circumstances. Evidence and/or contraband observed in plain view during this restricted search may be properly seized.

c. The fact that a crime has occurred at a specific location does not automatically authorize an unlimited search of the premises. Unless the situation meets the existing exceptions to warrant requirements, including the emergency situation, a warrantless search of a crime scene will be unreasonable and any evidence discovered during the search will be inadmissible at trial.

9-6 Administrative Search Warrants

a. The U.S. Supreme Court has held that; officials may enter a premise to fight a fire without a warrant and once in the building, officials may remain for a reasonable time to investigate the cause of the fire; additional visits to the scene to investigate the cause of the fire will be done pursuant to the warrant procedures governing administrative searches; and evidence discovered during the initial presence at the scene is admissible in court; and, evidence of arson discovered in the course of such investigations is admissible, but, if investigating officials find probable cause to believe that arson has occurred and require further access to gather evidence, they may obtain a warrant only upon the traditional showing of probable cause applicable to searches for evidence of a crime. (Michigan v. Tyler 1978 436 US 499).

b. Agency personnel, with the concurrence of their commander or his designee, may apply to a judge of the district court or a circuit court for an administrative search warrant to enter any factory, warehouse, vehicle, residence, building, establishment, or other premises where a fire has occurred to conduct a search to determine the cause and origin of the fire.

c. The application shall be in writing and signed and sworn to by the applicant and shall particularly describe the vehicle, building or premises to be searched and the nature, scope and purpose of the search to be performed by the applicant.

d. A judge of a court referred to in subsection b. above may issue the warrant on finding that:

(1) a fire of undetermined origin has occurred on the premises;

- (2) the scope of the proposed search is reasonable and will not intrude unnecessarily on the fire victim's privacy;
 - (3) the search will be executed at a reasonable and convenient time; and
 - (4) The owner, tenant, or other individual in charge of the property has denied access to the property, or after making a reasonable effort, the applicant has been unable to locate any of these individuals.
- e. An administrative search warrant issued under this provision shall specify the place, structure, remises, or vehicle to be searched. The search conducted may not exceed the limits specified in this warrant.
 - f. An administrative search warrant issued under this provision shall be executed and returned to the judge by whom it was issued within:
 - (1) the time specified in the warrant, not to exceed 30 days; or

- (2) if no time period is specified in the warrant, 15 days from the date of its issuance.

10-0 Vehicle Searches

10-1 The limitations of vehicle searches are varied and must be based on the existence of specific conditions. These conditions and limitations will be discussed individually in this subsection.

10-2 The laws governing searches of vehicles provide expanded latitudes to the police employee. These considerations are based on the need to protect the law enforcement officer, mobility of the vehicle, increased opportunity for contraband/evidence to be lost/destroyed, and, finally, probable cause. The Carrol Doctrine established the parameters of vehicle searches and has been recently reinforced by two U.S. Supreme Court rulings: U.S. vs. Ross and Belton vs. New York. Generally, vehicles may be searched without a warrant:

- a. incident to an arrest of one or more of the occupants
- b. when seized as evidence
- c. when probable cause exists that it contains seizable items
- d. when it has been abandoned
- e. under the "Open View" doctrine

10-3 A search of a vehicle incident to a lawful custodial arrest of one or more of its occupants is predicated on the deputy's right to protect himself and others, seize evidence and prevent the destruction of evidence. The search may include the person(s) arrested, the interior (passenger compartment) of the vehicle and any packages, containers and property, either opened or closed, contained therein. Locked containers should not be searched as this has been interpreted to preclude the arrestee's ability to reach the contents. In order for the search to be valid, it must:

- a. be a lawful custodial arrest
- b. the search must be contemporaneous (close in time and place) to the arrest. Since the search incident to a lawful custodial arrest is predicated on the possibility of the arrestee utilizing a weapon, destroying evidence, by delaying a search until a later time, i.e. after removal of the suspect, and re-locating the vehicle, there would be no grounds for the search without a warrant. The police officer may summon additional manpower to secure the suspect(s) at the scene or reasonably close thereto while the arresting officer conducts the search of the entire passenger compartment, as well as any containers found within. Probable cause or even mere suspicion that contraband, evidence or a weapon is in the vehicle is not required. This criteria is applicable

only to lawful incident to arrest situations. (Belton vs. New York).

- 10-4 Warrantless searches of vehicles based on probable cause that seizable property is contained therein is validated by the imposition of a separate set of circumstances.
- a. The Carrol Doctrine establishes that a police officer having probable cause that a vehicle contains seizable items may search a mobile vehicle which could conceivably leave the jurisdiction before a warrant could be obtained
 - b. The scope of the probable cause will always determine the scope of the search. (U.S. vs. Ross).
 - (1) If probable cause establishes that the vehicle contains a specific item, then the reasonableness and scope of the search will be determined by the nature of the item sought and its being located, if:

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- (a) it is established that the vehicle contains stolen weapons (unknown quantity), then the search of a matchbox found in the vehicle may be held unreasonable, while searching a trunk found in the luggage compartment would be reasonable. The search could continue

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until all weapons that could be concealed are located.

- (b) probable cause establishes that the vehicle is used to conceal a specifically identified container, then the search is limited to those locations where the container may be hidden and continued only until the container is located. The container would be searched following the acquisition of a warrant.
 - (c) probable cause establishes that the vehicle contains contraband. Generally, the search would continue until all areas of the vehicle which could contain contraband have been explored.
 - (d) a lawful arrest is made. The search may be expanded based on the search incident to arrest principle.
- c. When a vehicle is to be searched without a warrant based on probable cause, it may:
- (1) be searched at the location it was first stopped or taken into custody; or
 - (2) searched after being removed to another location for reasons of safety, custody, convenience.
- d. The time factor is not as critical in probable cause situations, especially when the vehicle is in the custody of the Agency; however, if unusually delayed, may be questioned as to why a warrant was not obtained.
- e. Generally, this rule permits the search of a "mobile" vehicle even though there is no danger that the vehicle may be taken or the evidence destroyed.
- f. If probable cause is not obtained until after the vehicle has lost its mobility or until it was taken into custody a warrantless search would be improper.
- 10-5 The investigating deputy shall arrange for such removal by an Agency-dispatched tow vehicle. The deputy should secure the vehicle prior to towing and follow the vehicle as it is being towed to its destination to provide for the proper safeguarding and chain of custody of evidence.

10-6 Scope

- a. A vehicle used to violate laws concerning the transportation of liquor, cigarettes, or narcotics, etc. can be seized without a warrant and subject to forfeiture. The seizure need not be incidental to an arrest, as long as there is probable cause to believe that the vehicle was used in the conduct of the criminal activity. The search of a seized vehicle may be made at the place where custody was first obtained or at another place and another time.
- b. If the vehicle is taken as evidence of a crime, either as an instrumentality by which the crime was committed (e.g. a hit- and-run homicide) or as fruit of a crime (a stolen car), it may be subject to a later, more careful examination just as is any other lawfully seized item.
- c. The inventory of vehicles and other objects under police control, where they have lawful custody is proper when done to protect the owner against property loss, to avoid a claim of destruction, and to protect the police against any hidden danger. Police cannot assume custody as a pretext for inventory where such an inventory is not reasonably necessary. The inventory must be carried out as part of established Agency procedure.

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- d. An abandoned vehicle may be seized and searched without a warrant and without probable cause.
- e. Evidence of probable cause justifying a search of a vehicle does not necessarily empower a deputy to search its unarrested occupants. A thorough search of an occupant may be justified only if the deputy has probable cause to believe that he possesses evidence of a criminal offense. The deputy may, however, pat down the outer clothing of any occupant whom he reasonably suspects may possess a weapon and whom he feels poses a danger to himself or others.
- f. The "open view" doctrine applies to all vehicles. Any contraband or evidence of a criminal offense seen while the deputy is in the proper conduct of an investigation or while interviewing an occupant of the vehicle, may be seized and will justify probable cause for a subsequent arrest and a more detailed search.

10-7 Force

- a. If a deputy has a legal right to search a vehicle and if the occupant refuses to allow him to proceed, he may use whatever force is reasonable and necessary to effect the search.
- b. Using unreasonable force to stop a vehicle may make the subsequent search of that vehicle illegal even though it was based on probable cause.

10-8 Roadblocks

A roadblock may not be established for the purpose of arbitrarily stopping all traffic so that searches may be conducted. However, courts have upheld the use of a roadblock to stop vehicles in order to permit the search of a particularly described automobile, or a car containing particularly described occupants.

11-0 Consent Search

11-1 The Rule

- a. One's consent to a search of his person or property under his control by a deputy acts as a waiver of his Fourth Amendment right to be free from a search without a warrant. Therefore, a search based on consent is lawful, even where there is no other justification for the search, if:
 - (l) the consent is made with the knowledge that he need not consent to a search;

(2) the consent is voluntary, i.e., freely given without duress or coercion; and

(3) the consent is clear and explicit.

b. Any waiver of a constitutional right will be examined carefully by the courts. Therefore, before evidence discovered as a result of a consent search will be admitted at a trial, the State will have to show by "clear and convincing" evidence that the consent was, in fact, freely and voluntarily given by a person who was aware of his right not to consent.

11-2 The Person Must be Aware of His Rights

a. A deputy should explain to the person that he has a right to refuse to consent to a search without a warrant. If the person indicates that he would like to consult with an attorney or anyone else before deciding whether to consent, he should be given an opportunity to do so.

b. The courts will examine the circumstances of each case to determine if the individual was aware of his rights.

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11-3 Consent Must Be Voluntary

a. Consent to a search must be given freely and voluntarily if the consent is to be valid. Any coercion or intimidation, actual or implied, will invalidate the consent. Courts have carefully examined many cases and in a high percentage of these found that submission to a deputy's authority was not true consent because it is not "voluntary." Examples include:

(1) A deputy pounds on a door and announces either that he has come to make a search or that he wants to talk or look around the premises. If he is given permission to enter, courts have often found that there is no valid consent because such a situation creates a coercive atmosphere

(2) What seems to be voluntary consent by a person under arrest may be found to have been induced by his inherently coercive environment.

b. Consent which is not the product of coercion, but which is obtained through the use of fraud or misrepresentation, is not voluntary. For example, a deputy tells the occupant of a house that he has a search warrant when in fact he does not and consent is given, such consent may be held to be invalid.

c. A voluntary confession of guilt which precedes a consent to search has been found to indicate that the consent was voluntary.

11-4 Consent Must Be Clear and Explicit

a. Before a deputy relies upon consent to justify a search, he should be certain not only that the person is aware of his rights and is under no coercion, but that a clear and explicit consent to search has in fact been given.

(1) A consent to enter is not a consent to search. But after a legal entry, whatever evidence is in open view, may be seized.

(2) A statement that a deputy is welcome to search may not imply that he is welcome to search without a warrant.

b. Written consent should be obtained where practicable. A signed and witnessed waiver provides the best proof of clear, voluntary consent. Whenever possible, CCSO Form, " Authorization to Search and Seize Property," should be used.

11-5 Who May Give Consent

a. A valid consent to a search may be given only by the person with a right to occupy the premises.

Examples include:

- (1) A landlord cannot consent to a search of a tenant's premises, unless the tenant has abandoned the premises or has been evicted
- (2) A host can give consent to a search of premises occupied by a guest. But if a particular area of the premises to be searched has been set aside for a long-term guest's exclusive use, or if the search is of an object which is exclusively the guest's, the consent of the host may not authorize a search
- (3) A parent can give consent to a search of premises occupied by a dependent child
- (4) An employee cannot consent to the search of an employer's premises, unless he has been delegated general authority to act as the agent of the employer. An employer may generally consent to a search of premises used by an employee in his work, unless it is a particular area set aside for the employee's exclusive use

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- (5) A person with custody of personal property belonging to another may consent to its search only if he has been given full control over the property, or if the property has been left on his premises without his authorization. Consent by a person having only conditional custody, such as that given for storage or shipment, is not valid.

b. If two or more persons have equal rights to the occupation of the premises, a consent to search may be given by any one of them, but only for the areas of use common to all. It must be understood that refusal to grant consent by one occupant may over-ride the consent given by the other. A legal consent search shall be valid against all occupants. Examples include:

- (1) Generally, one spouse can consent to a search of a residence shared with the other spouse
- (2) One joint tenant can consent to a search of jointly-held premises
- (3) A partner can consent to a search of partnership premises.

11-6 Revocation of Consent

Valid consent to search may be presumed to continue until all areas specified in the consent have been searched. Consent may be revoked, however, at any time before the search is completed. If consent is revoked prior to completion of the search, all evidence found prior to the revocation may be retained. This evidence may be used as probable cause for a subsequent warrant or for an immediate arrest and incidental search.

I-0 Introduction

I-1 For the purpose of this Section, a juvenile will mean any child under eighteen years of age who is subject to the jurisdiction of the circuit court for a county sitting as a juvenile court, except the Circuit Court for Montgomery County.

I-2 There are three basic categories of juveniles who may be petitioned to court.

a. First, is a Delinquent Child, i.e. a child who has committed a delinquent act and requires guidance, treatment, or rehabilitation. A delinquent act is an act which would be a crime if committed by an adult.

- b. Second, is a juvenile in Need of Supervision, i.e. a child who needs guidance, treatment, or rehabilitation because:
 - (1) He is required by law to attend school and is habitually truant
 - (2) He is habitually disobedient, ungovernable, and beyond the control of the person having custody of him without substantial fault on the part of that person (incorrigible)
 - (3) He deports himself so as to injure or endanger himself or others
 - (4) He has committed an offense applicable only to children, i.e. runaway.
- c. Third, is a juvenile who is in Need of Assistance, i.e. is a child who needs the assistance of the court because:
 - (1) He is mentally handicapped or is not receiving ordinary and proper care and attention
 - (2) His parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and his problems.

I-3 It is imperative that all juvenile arrest records be kept separate from adult records in the File so that juvenile confidentiality can be maintained unless the juvenile court has waived its jurisdiction and the child is being proceeded against as an adult.

2-0 Custody

2-1 Since juvenile procedures vary in some degree from county to county, it will be the commander's responsibility to ensure that deputies under his command are made aware of their respective county's procedures.

2-2 In all cases where a juvenile is taken into custody by any police employee, it shall be his responsibility to ensure that the juvenile's parents are notified as soon as possible of the circumstances.

2-3 A juvenile may be arrested for any act which would be a crime if committed by an adult, and the deputy, if the situation warrants, may use that force necessary to effect the arrest.

2-4 Police employees who have taken a juvenile into custody and who deem it feasible to further detain him pending a hearing must contact the Juvenile Services local Intake Division for authorization. The Intake Division will make the decision to release or detain the juvenile. A juvenile held in custody must receive a hearing before the Juvenile Court on the next working day of the court.

2-5 Juveniles taken into custody on a "Writ of Attachment," formerly a Bench Warrant, issued by the Juvenile Court will be held in detention but not incarcerated in a county jail unless said jail is equipped with separate facilities to handle juveniles. When separate facilities are not available, the Juvenile Services local Intake Division will be contacted to arrange for appropriate detention facilities. If a juvenile hearing can be scheduled within the same day, the juvenile may be held in detention at an installation lockup if the juvenile is segregated from adult prisoners by sight and sound, and the period of confinement does not exceed six (6) hours.

2-6 Under the provisions of Section 3-804 of the Courts and Judicial Proceedings Article, the juvenile court does not have jurisdiction over:

- a. A child fourteen years old or older alleged to have done an act which, if committed by an adult, would be a crime punishable by death or life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed pursuant to Section 594A of Article 27.

- b. A child sixteen years old or older alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance except an act that prescribes a penalty of incarceration.
- c. A child sixteen years old or older alleged to have done an act in violation of any provision of law, rule, or regulation governing the use or operation of a boat except an act that prescribes a penalty of incarceration.
- d. A child sixteen years old or older alleged to have committed the crime of robbery with a deadly weapon as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed pursuant to Section 594A of Article 27.
 - b. For the purposes of this subsection, "child" means a person under the age of eighteen years.
 - c. Complaints by parents or requests for juvenile delinquency action against their own children, where no police action has occurred, will be referred to the Intake Division of Juvenile Services in the respective area.

2-8 Search and seizure provisions of the law also apply to juveniles taken into custody.

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2-9

A juvenile may not be transported together with adults who have been charged with or convicted of a crime unless the court has waived its jurisdiction and the child is being proceeded against as an adult.

3-0 Interrogation

3-1 Interrogation of juveniles will be done according to the procedures in Section IV of this chapter.

3-2 Only a juvenile can waive his rights. No one, including his parents, should be permitted to influence or force the juvenile to waive his rights.

3-3 Other Investigative Aids

Before a juvenile submits to a polygraph examination, a parent, guardian, or juvenile authority must sign a Polygraph Waiver and Release form in the presence of the investigating deputy or examiner.

3-4 Before the case is forwarded to Juvenile Services, the following report procedures will be adhered to:

- a. On all Detention Logs the charge will be "Juvenile Delinquent," (followed by a list of the actual charge in parenthesis), (if the juvenile was actually detained)
- b. The CIR or other applicable report will contain the notation "Forward to Juvenile Services" and must be in their hands prior to the hearing
- c. The ending statement on the report forwarded to Juvenile Services shall be one of the following:
 - (1) Victim requests petitions to be filed
 - (2) Deputy requests petitions be filed
 - (3) No request for petitions - for juvenile information only.

3-5 After the Criminal Investigation Report or other applicable report has been forwarded to Juvenile Services, it will not be necessary for the arresting deputy to appear at the informal hearing, however, he may be called to testify at the formal court hearing.

3-6 Types of Juvenile Offenders

- a. Criminal-Type Offender (Delinquent Child) - A juvenile offender who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.
- b. Non-Offender (Child in Need of Assistance) - A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.
- c. Status Offender (Child in Need of Supervision) - A juvenile who has been charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

4-0 Detention

4-1 There are six occasions when a juvenile may be placed in detention:

- a. When the parent or guardian cannot be located
- b. When the parent or guardian is located but refuses to pick up the child

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Note: If the parent or guardian refuses to respond solely because of inconvenience to themselves due to lateness of the hour, etc., they are to be advised that they may be charged under Article 27, Section 96 of the Annotated Code of Maryland with "Child Abandonment." If after being so advised they still do not respond, the child will be placed in detention and the parent or guardian may be charged as indicated above, at a later time.

- c. When the parent or guardian is located but does not have transportation and/or cannot leave the home because of other smaller children, etc.

Note: If the circumstances indicated so warrant, every reasonable effort will be made to provide transportation for the child to the home where release by the signing of the proper forms will be effected. The determination for this transportation will be made by the shift commander who will be guided by availability of manpower, distance involved, etc.

- d. When the deputy has reason to believe the child will leave the jurisdiction
- e. When the deputy has reason to believe the child will bring harm to him or herself or someone else
- f. When a child is arrested on a "Writ of Attachment."

4-2 The shift commander will maintain a current duty roster of the available juvenile intake consultants.

4-3 Authority to place the child in actual detention at a jail or correctional facility for juveniles must be obtained from an intake Consultant of the Department of Juvenile Services in the respective area. However, before actual detention is effected there are two forms that must be completed with the telephonic assistance of the Intake Consultant.

- a. Authorization for Emergency Detention or Shelter Care Pending Hearing
- b. Notice of the Authorization of Detention or Shelter Care - this form has a carbon copy attached which must be delivered to the parent or guardian without delay
- c. The above forms are the only authorization needed by the receiving facility to hold a juvenile in detention.

4-4 Where the Intake Consultant requests that the juvenile be released at the installation, three copies

of a Juvenile Release Form must be signed by the deputy and the person to whom the juvenile is released.

- 4-5 In instances where the child is in need of supervision or assistance the Intake Consultant may make provisions either for a temporary shelter home or for transport to the Waxter Institute for Children located in Laurel.
- 4-6 Ordinarily, a juvenile will be processed as such unless the State Attorney's office advises differently. In the following situations, a juvenile will be treated as an adult
- a. When a child fourteen years old or older alleged to have done an act which if committed by an adult would be a crime punishable by death or life imprisonment, as well as all other charges against the child arising out of the same incident
 - b. When a child sixteen years old or older alleged to have committed the crime of robbery with a deadly weapon or attempted robbery with a deadly weapon, as well as all other charges against the child arising out of the same incident.

5-0 Separation of Juveniles From Adult Offenders

- 5-1 In the event that juvenile criminal offenders are temporarily detained at an installation during the same time an adult offender is being held/detained, the juvenile must be segregated by sight and sound and have no more than haphazard or accidental contact with the adult.

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- 5-2 The shift commander is responsible for segregating juvenile and adult offenders.

6-0 Maximum Detention Time for Juveniles

- 6-1 Juvenile criminal offenders may be confined within installation detention cells or other lockups for a period of up to six (6) hours for the purposes of identification, processing, or transfer to another facility.

7-0 Release of Information on Juveniles

- 7-1 Every reference to a juvenile detainee will be purged from a copy of any Detention Log subject to public inspection.

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9-0 Security and Control for a Holding Cell

- 9-1 A holding cell and the detainee will be searched prior to placing a detainee in a holding cell.
- 9-2 A police employee will be unarmed when entering a holding cell occupied by a detainee and, if deemed necessary, a second unarmed police employee will remain outside the cell but in full view of the cell.
- 9-3 A holding cell door will be secured at all times when occupied or unoccupied.
- 9-4 The shift commander will conduct and document weekly security inspections of a holding cell for weapons and contraband.
- 9-5 Any tableware (knife, fork, spoon) metal or plastic, given a detainee with a meal will be retrieved immediately after a meal is consumed.
- 9-6 If a detainee escapes, the shift commander will initiate a search for the detainee using the means available as he deems necessary, and inform the commander immediately thereafter.
- 9-7 A detailed report will be forwarded from a commander through the chain of command on any incident that threatens the facility or any person therein.

- 9-8 Where electronic audio and/or video equipment is used in the vicinity of a cell, it must be located so as not to deliberately violate a detainee's right to privacy.
- 10-0 Maintenance of Holding Cells
- 10-1 Maintenance work on a holding cell will not be conducted while occupied by a detainee.
- 10-2 Holding cells will be cleaned and sanitized at least weekly.
- 10-3 Procedures for control of vermin and pests will be performed as needed.
- 10-4 All fire-related equipment and alarms and the maintenance and inspection thereof will be accordance with the requirements as established by the State Fire Marshal.
- 11-0 Emergency Evacuations
- 11-1 In the event of a fire or situation requiring a facility to be vacated, the shift commander will ensure that all detainees are moved to a hazard free area. All assigned personnel will be familiar with the building exits in the event of an emergency.
- 12-0 Medical Attention

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- 12-1 A first-aid kit will be available at all facilities. Supplies used from a first-aid kit will be replaced immediately or as deemed necessary.
- 12-2 The shift commander will arrange for medical treatment of detainees as needed.
- 13-0 Release of Information
- 13-1 Every reference to a juvenile detainee will be purged from a copy of any Detention Log subject to public inspection.

MISCELLANEOUS RELATED CRIMINAL PROCEDURES

- 1-0 Warrant/Summons Procedures
- 1-1 Any time a criminal warrant, criminal summons, ex-parte order or other summons, including a witness summons is issued by the court and forwarded to another agency for service, it will immediately be recorded in the Cecil County Sheriff's Office computer using the Investigative Assignment Record and will have one copy of the Warrant/Summons Information Checklist attached to it. The required warrant information will be entered into the Maryland Inter-Agency Law Enforcement System (MILES). Summons information and ex-parte orders will not be entered into MILES.
- a. All criminal warrants and summonses issued by the court and forwarded to an agency for service will be reviewed by the agency's Investigation Section Commander or his designee. Necessary inquiries to the court and police agencies having concurrent jurisdiction will be made to determine if a police report has been initiated concerning the offense. If no report has been taken, a Complaint Control Number will be assigned, necessary investigation conducted and a Criminal Investigation Report completed. If a report has been taken, the warrant or summons will be handled as specified elsewhere in this Section.
 - b. If a warrant or summons is received by an employee directly from an official of the court or is served immediately after being issued, the administrative employee assigned to process warrants and summonses shall be provided the "Police Department" copy or a photocopy of the warrant or summons. The administrative employee shall make the appropriate log entry in the installation's Warrant Control Ledger or criminal/other summons log and shall open a file for the documents

provided.

- c. An inventory will be made of all open warrants and summonses every thirty days. When a warrant or summons has been assigned for service longer than thirty days and not yet served, the assigned deputy will report to the warrant control person the specific reason why service has not been effected. The form of report may be prescribed by the shift commander.
- d. Whenever an ex-parte order is received from the District Court, it will be immediately logged in the CCSO Warrant Control Ledger or Criminal/Other Summons Log . Once the order is logged by the shift commander or the administrative employee assigned to process warrants/summons, immediate service of the order should be attempted. If the order is not served immediately, a notation will be entered on the Complaint Control Card in the remarks section indicating the number and why service was not effected. The officer initially assigned the order will attempt service until his tour of duty is concluded. If service is not accomplished, the officer will turn the order over to the next shift commander, advising him of the original complaint control number and attempt for service. The shift commander will assign the order to a subordinate who will attempt service during his tour of duty utilizing a follow-up Complaint Control Card to the original incident. Since the order may involve several officers attempting service, the officer who actually serves the order should be indicated on the Form in the column "Officer Assigned", once service is accomplished. Court hearings on these orders are normally scheduled within a week after they are issued. Repeated attempts for service or a return of the document to the court prior to the hearing date will provide easy accountability of these court documents.

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- E. If a Deputy is to be absent for a period of time longer than normal leave, the warrant or summons shall either be returned for reassignment or placed in the Cecil County Sheriff's Office warrant or summons file until he returns to duty. Specifically, warrants and summonses will not be left in a patrol vehicle when the vehicle is not in the custody of the deputy assigned service of the warrant or summons, left in an installation mailbox for an extended period of time or otherwise exposed to loss or destruction.
 - F. If there is insufficient identification information to enter the wanted person's name into MILES, the available information will be recorded on a "3 x 5" card and placed in a local manual index file. The file will be checked when:
 - (1) a criminal records check is made
 - (2) a check for wanted (10-29) is requested
 - (3) a warrant or summons is received for service
 - (4) as part of criminal investigations where suspect information is available
 - (5) a request is received from other installations/divisions/units, police departments, etc.
 - G. If a possible "hit" develops as the result of the local manual index file, care must be exercised to ensure that the subject in question is the individual sought.
 - H. Generally, the Warrant/Summons Information Checklist will serve as the procedural report documenting the efforts of the Agency as to service. This would be in addition to any other report covering activity generated during the service, i.e., V.R. for a vehicle storage, CIR for the discovery of another offense, etc. The Form will be filed with the warrant/summons in its appropriate file, open or closed.
- 1-2 Warrants which require service in another agency's area will be entered into MILES/NCIC and then forwarded with an endorsement, when appropriate, to the serving agency. If an endorsement is not needed, then a routing slip will suffice for transmittal. Warrants which require service within Baltimore City will be entered into MILES/NCIC and then forwarded to Baltimore City Sheriff's Office, with an appropriate endorsement, for service. The "Police Department" copy or a photocopy of the warrant will be retained in the originator's warrant file with a copy of the

endorsement.

- 1-3 The division or unit that originally obtained the warrant will retain the primary responsibility for the initial attempt at service; however, the physical location of the warrant at the field installation will facilitate twenty-four hour verification of the warrant. The "Police Department" copy or a photocopy of the warrant will be retained in the originating division/unit's closed warrant file, along with a copy of the endorsement. The Warrant Case Assignment Log will indicate to which installation the warrant was for-warded.
- 1-4 Those warrants that are obtained by the Narcotics Division and that are of particular interest to that division for purposes of post-arrest interviews or other reasons, will have a notation entered in the miscellaneous field of the MILES/NCIC entry to the effect that the communications division be contacted upon apprehension. The communications division will maintain a roster, provided by the Narcotics Division, of personnel to be contacted in the event that apprehensions are made after hours.
- 1-5 Warrants which require service within Baltimore City will be entered into MILES/NCIC and then forwarded to the Baltimore City Sheriff's Office with two copies of the Warrant Form for service. Summonses will be transmitted in the same manner but will not be entered into MILES/NCIC. The "Police Department" copy of the warrant or summons or a photocopy will be retained in the originating installation's warrant or summons file with a copy of the endorsement.

2-0 Extradition

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- 2-1 When an individual arrested on local charges is found to be wanted in another state, the State's Attorney will be contacted to determine whether to prosecute locally or proceed with the extradition procedures as follows:
- a. If local prosecution is waived, a Maryland Fugitive Warrant will be obtained
 - b. If the accused waives formal extradition, he must sign A Consent to Waiver of Extradition Form DCCR-31 supplied by the court before a court of record. Waiver forms will be supplied by the courts. The subject may then be turned over to the demanding state.
- 2-2 If the accused refuses extradition, the Criminal Investigation Division will be notified. The CID Unit will supervise the case with the following information being submitted to them as soon as possible:
- a. The name, address, and description of the accused
 - b. The county and state seeking extradition and the offense for which the accused is being sought
 - c. The name and address of the official seeking extradition
 - d. The name and address of the Commissioner accepting or setting bond
 - e. The local charges, if any
 - f. The name and address of the bondsman, if applicable
 - g. The name and address of the attorney representing accused
 - h. The name and address of place of detention if not released on bond
 - i. Any subsequent changes which occur that affect the case.
- 2-3 The accused will be taken before a court in connection with the fugitive charge. He may then be committed to jail for a period of thirty days to await a Governor's Warrant or be released on bond with the following conditions:

- a. That he appear before the court at the time specified on the bond
 - b. That he surrender himself for arrest upon the issuance of a Governor's Warrant or Rendition.
- 2-4 At the expiration of the initial thirty-day period, the accused will be required to reappear before the court. If the Governor's Warrant has not been received, the deputy should request an additional sixty days extension on behalf of the demanding state.
- 2-5 Upon receipt of the documents by the Maryland Governor from the demanding state, a Governor's Hearing will be scheduled and the following will occur:
- a. The arresting deputy or his representative will be required to appear at the Governor's Hearing
 - b. If the Governor's Warrant is issued, the accused can be taken into custody and taken before a judge of a court of record. If the subject does not make application for a writ of habeas corpus, the judge will remand him to the custody of the demanding state authorities.
- 2-6.1 If local prosecution is decided upon, the following procedure will be followed:
- a. Obtain a Maryland Fugitive Warrant
 - b. Notify the Captain of the Investigation Division
 - c. Proceed with the bond hearing on the local charges only

- d. Do not proceed with the bond hearing or arraignment on the fugitive warrant as this warrant will be filed as a detainer until the local charges are adjudicated, or upon completion of sentence
 - E. After the above steps have been completed, routine extradition procedures will be initiated
- .2-7 When an out-of-state law enforcement official requests the apprehension and extradition of a fugitive within Maryland, the procedures specified in this subsection will be followed.
- 3-0 Detainers
- 3-1 When information is developed that a wanted person is in custody and a warrant is on file at an installation, the following procedures will be followed:
- a. If the person sought is in custody of a State correctional institution or at the Baltimore City Police Department or Jail, the warrants will be forwarded to the Baltimore City Sheriff's Office. A copy of the warrant and endorsements will be made and retained in the Cecil County Sheriff's Office Warrant File Computer.
 - b. If the wanted subject is in the custody of another agency within this State, a copy of the warrant with an executed copy of a Prisoner Detainer Request, will be forwarded to that agency. A copy of this detainer request will be forwarded to the C.I.D.
 - c. If the wanted subject is in custody of an agency outside the State of Maryland, a copy of the warrants with an executed copy of a Prisoner Detainer Request, under the Sheriff's signature, may be forwarded directly to that agency. The State's Attorney from the demanding jurisdiction must have previously authorized extradition and associated expenses.
 - d. Whenever detainers are filed against a prisoner, the office of the State's Attorney in the originating jurisdiction will be notified in order that their office may initiate proceedings to return the prisoner for trial

5-3 Court ordered emergency evaluation

1. Determine if patient is "on bond" or is an inmate of a correctional facility.
2. If the patient is "on bond" the institution will have to notify the court that ordered the evaluation. The decision to revoke bond and arrest will be made by the court.
3. If the patient is still an inmate at a correctional institution the report will be handled on a CIR as an escape (Art 27 §139).
 - a. The head of the correctional institution will be notified of the escape so that a retake warrant can be issued.
 - b. The state's attorney that prosecuted the case will be notified of the escape. A copy of the notification will be attached to the CIR.
 - c. If it is a confirmed felony escape, enter into MILES/NCIC as Temporary Felony Wanted (good for 48 hours or until warrant is issued).

5-4 WHEN INSTITUTION REPORTS ESCAPE OF PATIENT WHO HAS BEEN COMMITTED BECAUSE HE IS NOT CRIMINALLY RESPONSIBLE OR HE IS INCOMPETENT TO STAND TRIAL.

1. Determine if a hospital warrant has been issued because he violated provisions of a conditional release. If a hospital warrant has been issued handle the incident as a MPR as previously outlined.

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2. If the patient was not on a conditional release, the incident will be handled as an escape (Art 27 §139) and reported on a CIR.
 - a. An arrest warrant will be obtained and warrant information will be entered in MILES/NCIC.
 - b. The state's attorney that prosecuted the case will be notified of the escape. A copy of the notification will be attached to the CIR.
 - c. If it is a confirmed felony escape, enter into MILES/NCIC as Temporary Felony Wanted (good for 48 hours or until warrant is issued).

5-5 Violation of conditional release

A conditional release may be granted by a court for patients that have been ruled to be not criminally responsible or incompetent to stand trial and who are confined to an institution. If there is a violation of a conditional release the state's attorney will be notified by the institution. The State's Attorney will determine if there is a factual basis for the complaint. If there is, he will present the facts to the court. If the court agrees a "Hospital Warrant" will be issued and a copy will be forwarded to the institution. **A "Hospital Warrant" is a civil process and does not require processing when the patient is apprehended.**

1. Hospital warrants are handled on a MPR

Include in the narrative whether a hospital warrant has been issued. If one has, who to notify of apprehension and where person is to be taken. The apprehending agency will be notified of the hospital warrant when the "hit" confirmation is made. Circumstances of the patient's incarceration are to be included in the narrative.
2. Entered into MILES/NCIC as a missing person.

No entry is to be made in the miscellaneous field that a hospital warrant was issued.
3. Hospital warrants are filed . Include the MPR report number on the face of the warrant.

Audit of hospital warrants once every three months for comparison with MPR file to see if case is still open.

4. When apprehended use a Form to record the apprehension and release to hospital authorities. Prior to attempting service of a hospital warrant criminal history information must be checked.
5. Follow up needs to be done on MPR to see if a hospital warrant was issued and where it is.

6-0 Escapees - Local or Regional Detention Facilities

- 6-1 Generally, incidents of escape from local or regional detention facilities will be reported to and investigated by the local law enforcement agency in that area. A local or regional detention facility is any jail, detention center or other facility of a municipality or county for the detention or incarceration of prisoners.
- 6-2 The administrator or his designee of a local or regional detention facility has the authority to issue Retake Warrants for the apprehension and return of escapees. An administrator includes: the Warden, Superintendent, Sheriff or other official responsible for the management of a local or regional detention facility.
- 6-3 Agency personnel apprehending escapees on retake warrants issued by an administrator of a local or regional detention facility will process and return the escapee according to those procedures established for processing Fugitives - Other Area contained in this Chapter.

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7-0 Mass Arrest Procedures

- 7-1 A mass arrest situation is any situation during which multiple arrests are anticipated, such as civil disorders, large scale CDS or gambling raids, etc. and where local personnel are thought to be unable to expeditiously process those arrested. Also, included within this definition are instances where individual arrests have been made over an extended period of time by various deputies who, due to the nature of the assignment (e.g. civil disorders), were unable to leave their post to process their arrestees.
- 7-2 During mass arrests involving circumstances where local personnel are thought to be unable to expeditiously process those arrested, the prisoners will be processed by the Crime Laboratory Division at a suitable location established by the local commander. The method of receiving, identifying, and processing prisoners will be determined by the Crime Laboratory Division personnel based on the nature of the situation and facilities available. Arresting deputies will be advised of the appropriate procedures by the Crime Laboratory Division personnel in each situation.

8-0 Fresh Pursuit

8-1 Introduction

- a. Nothing in this subsection shall prevent the Cecil County Sheriff's Office from assisting police agencies in bordering jurisdictions when requested. However, before such assistance is rendered, permission shall be obtained from the Division Commander. Commanders should make such decisions on a case by case basis on the merits of each situation. It must be remembered that members of the Agency have no police powers outside the State's boundaries, except in situations defined by law; i.e., fresh pursuit, extradition, etc., and hence are bound by the laws of the jurisdiction that is entered. Therefore whenever members of the Agency are requested to act in foreign jurisdictions they will be accompanied by duly authorized law enforcement personnel of that jurisdiction in the event police action is necessary.

- b. The term "fresh pursuit" as used in this subsection shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay. (Annotated Code, 1951, subsection 684; 1939, subsection 642; 1937, ch. 123, subsection 549F.)
- c. The pursuing deputy must, as in all cases involving enforcement action, realize that the ultimate decision is his to make, and must also realize that he assumes a personal liability in the event his actions are judged improper or illegal.

8-2 Deputies Entering Foreign Jurisdiction

- a. The primary factor for a deputy to consider when entering an adjacent state jurisdiction is the protection of property and the safeguarding of lives. The deputy must carefully evaluate, based on the facts immediately available to him, whether his continued pursuit across a state line into an area in which his authority is limited to that contained within the provisions of the Fresh Pursuit Act, or those rights and authority possessed by all citizens at Common Law, will result in a reduction of imminent danger to the public, or whether his continued pursuit is not in the public interest. The pursuing deputy will have to make the final decision, after taking due notice of his previous experience, training and the guidelines contained within this policy; and apply his collective knowledge to the situation then confronting him. The pursuing deputy will, however, be governed by the following.

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- B. Vehicle Operation - When pursuing, members will be guided by the provisions of the Transportation Article and the procedures contained elsewhere in this manual concerning operation of motor vehicles under emergency conditions. Police vehicles may be used to physically force to the side of the road vehicles being pursued as a result of felony cases only, and then only after all other means of stopping the pursued vehicle have failed. Under no circumstances will a non-police vehicle be utilized as a means of physically stopping a fleeing vehicle.
 - (1) The number of pursuing vehicles crossing a major jurisdictional boundary shall be limited to those absolutely necessary to provide sufficient manpower to deal with the situation. Once the police agency responsible for services in the jurisdiction entered joins the pursuit, that agency should have the responsibility for continued pursuit. Conditions permitting, only one CCSO unit should continue pursuit.
 - (2) Roadblocks should not be attempted without the authorization of the appropriate official of the jurisdiction entered.
 - (3) Vehicles pursuing into other states should be marked units. If no marked units are available, then unmarked units may pursue, making full use of visual and audible emergency equipment.
- c. Communications - When it becomes apparent to the pursuing deputy that the possibility exists that he will find it necessary to cross a jurisdictional line he shall immediately notify the nearest installation of such possibility existing. The pursuing deputy shall also furnish that installation with a description of the fleeing vehicle, the charge for which such vehicle is pursued and the location and direction of travel of such pursuit. The installation shall immediately transmit such information to the responsible police agency in the jurisdiction to be entered by the fastest means possible.
- d. Use of Firearms - Use of firearms during fresh pursuit in a foreign jurisdiction will be in strict conformance to CCSO policy and regulations governing use of firearms within Maryland.

8-3 Apprehension

- a. The deputy legally pursuing a violator across a state line, who makes an apprehension, either by himself or with the assistance of that jurisdiction's police department, shall not remove the apprehended subject from that jurisdiction until all the appropriate laws of the foreign jurisdiction have been fully complied with regarding judicial hearings on the legality of the arrest and the legal right to remove such person to the State of Maryland. States sharing a common border vary regarding the legal requirements of extradition and general guidelines may be found in succeeding sections.

8-4 Records and Notification

- a. The commander on duty at the installation with which the pursuing deputy communicates shall:
 - (1) Enter on the appropriate log and report all facts, including times and names of persons contacted, concerning the crossing of a jurisdictional line
 - (2) Notify the Chief Deputy, the Director of Law Enforcement, Captain of Patrol and the Sheriff of such incident.

8-5 Authority of Officers of Other States to Arrest in Maryland

- a. Any member of a duly organized state, county or municipal peace unit of another state of the United States who enters this State in fresh pursuit and continues within this State in such fresh pursuit of a person in order to arrest him on the ground that he is believed to have committed a felony in such other state, shall have the same authority to arrest and hold such person in custody, as has any member of any duly organized State, county or municipal peace unit of this State, to arrest and hold in custody a person on the ground that he is believed to have committed a felony in this State.

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- b. If an arrest is made in this State by an officer of another state, in accordance with provisions of subsection 2-1 of this Section, he shall, without unnecessary delay, take the person arrested before a judge of the circuit court of the county or a judge of the Criminal Court of Baltimore City, in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the judge determines that the arrest was unlawful, he shall discharge the person so arrested.

Note: The purpose for the immediate hearing in this subsection is to determine lawfulness of the arrest so that the person lawfully arrested can be held for extradition proceedings.

9-0 AWOL

- 9-1 In order to make prompt disposition of military AWOL personnel in custody, the arresting deputy will assure that the nearest available military installation is immediately notified either in person or by telephone

CRIMINAL ARREST PROCESSING AND RELATED FINGERPRINTING AND PHOTOGRAPHING

1-0 Introduction

- 1-1 Criminal arrest information is transmitted by the Agency to the Criminal Justice Information Systems Central Repository by use of the CCSO Fingerprint Card (Form 60). This is the only document (along with the FBI Fingerprint Card) that is used to enter charges on an individual's criminal record. Disposition information is transmitted to CJIS-CR by the courts.

2-0 Fingerprinting and Photographing SHALL BE COMPLETED BY BOOKING

- 2-1.1 Booking procedures will be done in compliance with the rules and regulations of the Cecil County Detention Center.
- 2-1.2 For Deputies to access criminal records they need only the name and date of birth for Booking to

produce the record. The other helpful numbers are the Incarceration Number, Personal Identification Number, or Arrest Number.

- 2-1.3 Booking will do fingerprinting and palmpinting as a mater of routine, you may make special request if needed.
- 2-4 All district court charging documents include an arrest tracking number that serves as the case number in the district court, and as the docket number in the Second Judicial Circuit. The purpose of this procedure is to improve the effectiveness of automated disposition reporting and facilitate inquiries into the status of a criminal prosecution at any stage by insuring that the arrest information matches the information in district court case folders, circuit court dockets, and subsequent dispositions. The arrest tracking number system does not replace any current CCSO procedure or the processing of the "FBI" fingerprint card.

a. Procedure

- (1) All charging documents (Form DC/CR) stocked at CCSO installations for charges initiated by CCSO personnel will be obtained from the Supply Room, except where superseded by local court procedures.
- (2) When an arrest is made, the top portion (above the heavy black line) of the label on the charging document must be affixed to the top of the CCSO fingerprint card.
- (3) For arrests which result from the service of a criminal arrest warrant, body attachment or contempt citations, the following procedures will be utilized:
 - (a) The charge block will reflect the type of arrest, i.e. bench warrant service, etc.

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- (b) District court commissioner will forward a partially completed charging document with any warrant for service. That charging document will be used when the warrant is served. Previously established procedures will be followed.
- (c) The tracking number labels of the additional charging documents will be affixed to the back bottom portion of the CCSO fingerprint card.
- (4) The arrest tracking number will be submitted for all on-view arrests and all arrests caused by service of charging documents, with the following exceptions:
 - (a) Arrest and Release Without Charges - In this instance, "RELEASED WITHOUT CHARGE" will be written in the immediate disposition space on the back of the fingerprint card.
 - (b) Service of Warrants Without Tracking Number Labels (Old Warrants) - The arresting installation will place the district court case number from the warrant on the CCSO fingerprint card in the "Miscellaneous Number" block. The notation "WARRANT - TRACKING NUMBER UNAVAILABLE" will be written in the designated space for the tracking strip on the front of the fingerprint card.
 - (c) Service of Circuit Court Charging Documents - The arresting installation will place the circuit court docket number on the CCSO fingerprint card in the "MISCELLANEOUS NUMBER" block, along with the notation "WARRANT - CIRCUIT COURT" AND "TRACKING NUMBER UNAVAILABLE".
 - (d) In instances where the arresting installation has the charging documents from the demanding jurisdiction, the tracking number strip will not be removed from the charging document. The charging document will be returned to the demanding agency for proper handling.

3-0 Submitting Reports - Responsibility

3-1 Generally, the member making the arrest is responsible for the reports and the fingerprinting.

a. Extraditions

Prior to releasing an accused to an out-of-state authority for violations of that state's criminal law, secure a signed consent to Waiver of Extradition (Form DCCR-31 supplied by the court) from the accused before a court of record.

b. Juveniles

- (1) Juveniles will be fingerprinted and photographed in accordance with local policies for processing juvenile arrestees, or after juvenile jurisdiction has been waived.
- (2) If an accused is under the age of eighteen, and is detained, a Form (Detention Log) must be completed .

4-0 Detention Log CCSO Form

4-1 CCSO Form (Detention Log) serves as a detention record for local installations when an individual, adult or juvenile, is taken into custody and is not able to leave of his own free will. It is the responsibility of the arresting deputy to complete the form as soon as possible after detention begins. The original Detention Log will be maintained in a suitable binder that is accessible to the installation shift commander. Copies will be made as necessary for local filing purposes and as indicated in Subsection 4-2.

4-2 The Juvenile Justice Advisory Council requires a semi-annual tabulation of juvenile detention information from each CCSO installation. For this purpose, a copy of every detention log that is completed for a juvenile who was detained will be placed in the file in accordance with the published retention schedule. Copies of adult CCSO Form will be filed .

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4-3 A review of the Detention Log Book will be conducted every thirty days.

5-0 Form Preparation

- a. While the bulk of the Detention Log is self-explanatory, special attention should be directed to the following a part of the form.
- (1) The status of the detainee regarding his classification as an adult or juvenile
 - (2) Health of detainee based on observation and inquiry
 - (3) behavior (calm, combative, etc.)
 - (4) Medication taken (list name and dosage of medication taken)
 - (5) Data in the "Juveniles Only" block which is used by the Juvenile Justice Advisory Council.

EXPUNGEMENT OF ARREST INFORMATION

1-0 Procedure

1-1 When the Agency receives an order directing the expungement of a criminal record, the Criminal Justice Information Systems-Central Repository (CJIS-CR) files will be purged in accordance with established procedures.

1-2 CJIS-CR will forward an original and one copy of the Notification of Expungement to the installation where the arrest had been made. The installation will forward to CJIS-CR all records pertaining to the charges listed on the Notification, including all copies of the Criminal Arrest documentation, identification photographs, FBI rap sheet, FBI 1-A/B slip, criminal summons, etc. In addition, any information card issued by the Department of Parole and Probation identifying an individual as being placed on probation for the charge cited in the expungement order, which may have been included in the installation case file, shall be forwarded to CJIS-CR.

1-3 All that should remain on the Master Card File is the name, address and physical description of the individual. On the back of the card all information pertaining to the arrest, detention, or confinement of the particular incident is to be eradicated/removed. All that should remain is the date the deletions were made, the word "Expunged" and the CIR, IR or summons number.

1-4 A copy of the Notification of Expungement shall be placed in the CIR folder or in the file from which the criminal summons was removed, but all other reference to the charge must be purged from the files.

- 1-5 All criminal arrest information referred to in the Notification of Expungement will be removed (CA Logs, Arrest Ledger, Detention Log, etc.). The word "Expunged" and the date such deletions were made shall be entered where the information was removed.
- 1-6 Upon receipt of a Notification of Expungement, the following files will be checked and any arrest data, the subject of the Expungement order, will be removed. The word "Expunged" and the date such deletions were made shall be entered where the expunged information was removed.
- Warrants Closed
 - Warrant Case Assignment Log
 - Criminal and/or Other Summons
 - Incident Reports
 - Criminal Arrest
 - Criminal Arrest Unsupported by BI Number
 - Criminal Arrest Juvenile

SHERIFF BARRY A. JANNEY, SR.

DATE