
	<b>LOWER MERION TOWNSHIP POLICE DEPARTMENT</b> <b>Ardmore, Pennsylvania</b>	
	<b>Policy 3.8.1</b>	
Subject:		Distribution:
<b>Arrests with/without a Warrant</b>		<b>All Sworn Personnel</b>
Date of Issue:	Expiration Date:	Rescinds:
<b>06-01-2014</b>	<b>Until Amended or Rescinded</b>	<b>Directive: 05-98</b>
References:		
<b>CALEA: 1.2.5; PLEAC: 1.2.4</b>		
By Authority of:		
		<b>Superintendent of Police</b>

## **PURPOSE**

The purpose of this policy is to establish uniform procedures in the handling of arrests both with and without a warrant. Arrests are governed by Title 234 (Pennsylvania Rules of Criminal Procedure), Pennsylvania statutes, and Pennsylvania and Federal Court decisions. (**PLEAC 1.2.4**)

## **POLICY**

It shall be the policy of this department to ensure compliance with the Pennsylvania Rules of Criminal Procedure and all state and federal statutes and court decisions, which grant police officers the powers of arrest.

## **PROCEDURE**

- A.** Officers shall arrest persons with/without a warrant in accordance with Title 234, (Pennsylvania Rules of Criminal Procedure), Title 75 (Pennsylvania Vehicle Code), Title 18 (Pennsylvania Crimes Code), and the Code of the Township of Lower Merion. All actions involving arrests with/without a warrant for the Penal Laws of the Commonwealth of Pennsylvania must follow these rules. The following are a summary of the rules and statutes governing arrests both with and without a warrant.
- B.** If a member of this Department arrests a Law Enforcement Officer from an outside agency, an on-duty Supervisor shall immediately be notified. It shall be the on-duty Supervisors responsibility to contact the agency where the arrestee is from.
- C. ARREST WITHOUT A WARRANT: Summary Cases**
  - 1.** Title 234 Pa. Rules of Criminal Procedure
    - a.** Rule 440, Procedures in Summary Cases When Defendant is Arrested

Without Warrant. When an arrest without a warrant in a summary case is authorized by law, a police officer that exhibits some sign of authority may institute proceedings by such an arrest.

- b.** Rule 441, Procedure Following Arrest Without Warrant. When a defendant has been arrested without a warrant, the defendant shall be either released from custody pursuant to paragraph (1) or taken before the proper issuing authority under paragraph (2).
    - 1.** When a defendant has been arrested without a warrant, the arresting officer shall promptly release the defendant from custody when the following conditions have been met:
      - a.** The defendant poses no threat of immediate physical harm to any other person or to himself or herself;
      - b.** The arresting officer has reasonable grounds to believe that the defendant will appear as required; and
    - 2.** A citation shall be issued to the defendant at the time of release and thereafter the case shall proceed in accordance with Rules 405-409 as if the proceedings had been instituted by issuing a citation to the defendant.
    - 3.** When the defendant has not been released from custody the defendant shall be taken without unnecessary delay before the issuing authority where a citation shall be filed against the defendant. The defendant shall be given an immediate trial unless:
      - a.** The Commonwealth is not ready to proceed, or the defendant requests a postponement or is not capable of proceeding, and in any of these circumstances, the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial, or
      - b.** The defendant's criminal record must be ascertained before trial as specifically required by statute for purposes of grading the offense charged, in which event the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial, which shall be after the issuing authority's receipt of the required information.
- 2.** Title 75, Vehicle Code of Pennsylvania, Chapter 63, Enforcement, Subchapter A, Section 6304, Authority to Arrest Without a Warrant.
    - a.** Officers may arrest any non-resident who violates any provision of this title in the presence of the officer making the arrest.
    - b.** Upon arrest of a non-resident under this Section, the officer shall proceed in

accordance with the provisions of Section 6305 of the Vehicle Code.

3. Title 42, Pa. Consolidated Statutes, Section 8902 authorizes arrests without a warrant under Title 18, Crimes Code of Pennsylvania, when a police officer has probable cause from viewing ongoing conduct, which imperils the personal security of any person or endangers public or private property when such conduct constitutes certain summary offense(s), which are as follows:
  - a. Disorderly Conduct (18 Pa. C.S. Section 5503).
  - b. Public Drunkenness (18 Pa. C.S. Section 5505).
  - c. Obstructing Highway (18 Pa. C.S. Section 5507).
  - d. Underage purchase/possession of liquor (18 Pa. C.S. Section 6308).
4. Code of the Township of Lower Merion, Chapter 5, § 5-10 (Powers of Policemen) which grants them the authority to arrest without warrant and on view any persons guilty of a breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness, or who may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens or violating any of the ordinances of the township for the violation of which a fine or penalty is imposed.

#### **D. ARREST WITHOUT A WARRANT: Misdemeanor / Felony Cases**

1. Title 234 Pa. Rules of Criminal Procedure
  - a. Rule 502, Means of Instituting Proceedings in Court Cases.
    1. Warrantless arrest is authorized when the offense is a felony or misdemeanor committed in the presence of the officer making the arrest.
    2. Warrantless arrest is authorized based upon probable cause when the offense is a felony.
    3. Warrantless arrest is authorized upon probable cause when the offense is a misdemeanor not committed in the presence of the officer making the arrest when such arrest without a warrant is specifically authorized by statute.
  - b. Rule 519, Procedure in Court cases Initiated by Arrest Without Warrant.
    1. When an officer has arrested a defendant without a warrant in a court case, the officer shall file a complaint against the defendant and he/she shall be afforded a preliminary arraignment before the proper issuing authority without unnecessary delay. The arresting officer, or his/her designee, will contact the Magisterial District Judge for the jurisdiction of arrest, or the on-call Magisterial District Judge, and schedule or arrange for the defendant's preliminary arraignment under this Rule.

2. The arresting officer shall promptly release from custody a defendant who has been arrested without a warrant, rather than taking the defendant before the issuing authority, when the following conditions have been met:
  - a. When the most serious offense charged is a misdemeanor of the second degree or a misdemeanor of the first degree in cases arising under 75 Pa.C.S. 3802.
  - b. When the defendant poses no threat of immediate physical harm to any other person or to himself or herself.
  - c. When the arresting officer has reasonable grounds to believe that the defendant will appear as required if the charges are instituted by summons.

In cases where the defendant is released pursuant to Rule 519, officers shall file a complaint against the defendant within five (5) days of the defendant's release. Thereafter, a summons, not a warrant of arrest, shall be issued and the case shall proceed as provided for in Pa. Rules of Criminal Procedure Rule 510.

2. Title 18, Crimes Code of Pennsylvania, Chapter 27, Assaults, Section 2711.
  - a. Officers shall have the same right of arrest without a warrant as in a felony whenever he/she has probable cause to believe the defendant has violated Crimes Code sections 2701 (related to simple assault), 2702(a)(3), (4) and (5) (related to aggravated assault, or 2705 (related to recklessly endangering another person) against his spouse or other person with whom he resides or has formerly resided although the offense did not take place in the presence of the police officer if the officer first observed recent physical injury to the victim or other corroborative evidence of the offense(s).
  - b. Chapter 39, Theft, Subchapter B, Section 3904. Officers shall have the same right of arrest without a warrant for any grade of theft as exists or may hereafter exist in the case of the commission of a felony.

## **E. ARREST WITH A WARRANT/ USE OF SUMMONS**

1. Title 234 Pa. Rules of Criminal Procedure
  - a. Rule 509, Use of Summons or Warrant of Arrest in Court cases provides that the issuing authority shall:
    1. Issue a summons and not a warrant of arrest in cases in which the offense charged is punishable by a sentence to imprisonment of not more than one year, except as set forth in paragraph (2).

2. The offense charged is punishable by a sentence to imprisonment of more than five years or the defendant is charged with more than one offense and one of such offenses is punishable by a sentence to imprisonment of more than five years.
  3. The issuing authority has reasonable grounds to believe that the defendant will not obey a summons.
  4. The summons has been returned undelivered.
  5. A summons has been served and disobeyed by defendant.
  6. The identity of the defendant is unknown.
- b. Rule 513, Requirements for Issuance.
1. No arrest warrant shall be issued, but upon probable cause supported by one or more affidavits sworn to before the issuing authority.
  2. Officers shall submit an Affidavit of Probable Cause, under the provisions of the Pa. Rules of Criminal Procedure with all Criminal Complaints where an arrest warrant is required or being requested.

**F. Documenting Arrests (CALEA 1.2.5 a)**

1. An arrest report is to be completed in the ALERT reporting system for every arrest, including physical arrests on traffic offenses. Officers shall refer to Policy 3.11.2, Recording Information, for all fields required to be completed in ALERT.

**G. Fingerprinting/Photographing (CALEA 1.2.5 b, c)**

1. In all incidents of arrest with or without a warrant, fingerprinting and photographing shall be completed consistent with any applicable policies of the department.

**RESPONSIBILITY**

It is the responsibility of all supervisory personnel to ensure that all personnel under their immediate supervision comply with this policy.

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