

FREDERICK POLICE DEPARTMENT GENERAL ORDER

Section 7: Force, Detention, and Arrest
Topic: ARRESTS WITHOUT A WARRANT
Approved: 11/14/18
Review: Annually in April by Commander, Operational Services Bureau
Supersedes: G.O. 760, dated 05/01/13

Order Number: 760
Issued by: Chief of Police

.01 PURPOSE:

To set guidelines for conducting arrests without a warrant.

.02 CROSS-REF:

G.O. 155, "Required Incident Paperwork"
G.O. 210, "Traffic Law Enforcement"
G.O. 218, "Arrests for Motor Vehicle Offenses"
G.O. 270, "DUI/DWI Enforcement"
G.O. 510, "Domestic Violence Investigations"
G.O. 520, "Juvenile Procedures"
G.O. 540, "Mentally Ill Persons"
G.O. 560, "Diplomatic and Legislative Immunity"
G.O. 702, "Bias Based Profiling/Discriminatory Practices"
G.O. 705, "Use of Force"
G.O. 742, "Warrantless Search and Seizure"
G.O. 758, "Officer Discretion"
G.O. 762, "Mass Arrests"
G.O. 770, "Prisoner Transport"
G.O. 771, "Service of Court Charging Documents"
G.O. 773, "Sick or Injured Prisoners"
G.O. 775, "Searching of Prisoners"
G.O. 780, "Temporary Holding Facilities"
G.O. 828, "Fingerprint Processing and Procedures"
G.O. 860, "Interviews and Interrogations"
G.O. 1422, "Jurisdiction"
G.O. 1655, "Police Officer Conduct"
CALEA STANDARDS: 1.2.5

.03 DISCUSSION:

The power of police officers to make arrests without an arrest warrant is strictly defined by the United States Constitution, the laws of the State of Maryland, the Charter and Code of the City of Frederick, and applicable case law.

.04 POLICY:

It is the policy of the Frederick Police Department that all arrests will be made in compliance with all applicable laws, court decisions, and General Orders of the Department. Only sworn law enforcement officers will make arrests.

.05 DEFINITIONS:

ARREST: The taking into custody, pursuant to the laws of arrest, of a person whom a police officer has probable cause to believe has committed a crime.

PROBABLE CAUSE (REASONABLE GROUNDS): Facts and circumstances, of which there is reasonably trustworthy information, sufficient in themselves to lead a police officer of reasonable caution to believe that a person in question is committing or has committed a crime.

.10 ARRESTS WITHOUT A WARRANT PERMITTED FOR CRIMINAL OFFENSES:

Maryland law permits sworn police officers to make warrantless arrests for criminal violations under the following circumstances:

1. A police officer may arrest without a warrant a person who commits or attempts to commit a felony or misdemeanor in the presence or within the view of the police officer.
2. A police officer who has probable cause to believe that a felony or misdemeanor is being committed in the presence or within the view of the police officer may arrest without a warrant any person whom the police officer reasonably believes to have committed the crime.
3. A police officer without a warrant may arrest a person if the police officer has probable cause to believe that a felony has been committed or attempted and the person has committed or attempted to commit the felony whether or not in the presence or within the view of the police officer.
4. A police officer without a warrant may arrest a person if the police officer has probable cause to believe:
 - A. That the person has committed one of the following crimes:
 - (1) Manslaughter by vehicle or vessel under § 2-209 of the Criminal Law Article;
 - (2) Malicious burning under § 6-104 or § 6-105 of the Criminal Law Article or an attempt to commit the crime;
 - (3) Malicious mischief under § 6-301 of the Criminal Law Article or an attempt to commit the crime;
 - (4) A theft crime where the value of the property or services stolen is less than \$1000 under § 7-104 or § 7-105 of the Criminal Law Article or an attempt to commit the crime;
 - (5) The crime of giving or causing to be given a false alarm of fire under § 9-604 of the Criminal Law Article;
 - (6) Indecent exposure under § 11-107 of the Criminal Law Article;
 - (7) A crime that relates to controlled dangerous substances under Title 5 of the Criminal Law Article or an attempt to commit the crime;
 - (8) The wearing, carrying, or transporting of a handgun under § 4-203 or § 4-204 of the Criminal Law Article;
 - (9) Carrying or wearing a concealed weapon under § 4-101 of the Criminal Law Article;
 - (10) Prostitution and related crimes under Title 11, Subtitle 3 of the Criminal Law Article;
 - (11) Violation of a condition of pretrial or post trial release under § 5-213.1(1), § 5-213.1(2), and/or § 5-213.1(3) of the Criminal Law Article;

- B. That unless the person is arrested immediately, the person:
 - (1) May not be apprehended;
 - (2) May cause physical injury or property damage to another; or,
 - (3) May tamper with, dispose of, or destroy evidence.

- 5. A police officer without a warrant may arrest a person if:
 - A. The police officer has probable cause to believe that:
 - (1) The person battered the person's spouse or another person with whom the person resides;
 - (2) There is evidence of physical injury; and,
 - (3) Unless the person is arrested immediately, the person:
 - a. May not be apprehended;
 - b. May cause physical injury or property damage to another; or,
 - c. May tamper with, dispose of, or destroy evidence; and,
 - B. A report to the police was made within 48 hours of the alleged incident.
 - C. If the police officer has probable cause to believe that mutual battery occurred and arrest is necessary, the police officer shall consider whether one of the persons acted in self-defense when determining whether to arrest the person whom the police officer believes to be the primary aggressor.

- 6. A police officer without a warrant may arrest a person if:
 - A. The police officer has probable cause to believe the person has engaged in stalking under § 3-802 of the Criminal Law Article;
 - B. There is credible evidence other than the statements of the alleged stalking victim to support the probable cause; and,
 - C. The police officer has reason to believe that the alleged stalking victim or another person is in danger of imminent bodily harm or death.

- 7. If a law enforcement officer has probable cause to believe that a person has trespassed on posted property that is used for a defense-related activity as defined in § 9-701 of the Criminal Law Article, the law enforcement officer may arrest the person without a warrant for a violation of § 9-702 or § 9-703 of the Criminal Law Article.

.15 ARRESTS WITHOUT A WARRANT REQUIRED FOR CRIMINAL OFFENSES:

Maryland law requires sworn police officers to make warrantless arrests for criminal violations under the following circumstances:

- 1. An officer shall arrest without a warrant and take into custody a person who the officer has probable cause to believe is in violation of:

- A. The relief granted in an interim protective order under § 4-504.1(c)(1), (2), (3), (4)(i), (7), or (8) of the Family Law Article in effect at the time of the violation;
 - B. The relief granted in a temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), or (v) of the Family Law Article in effect at the time of the violation; or,
 - C. The relief granted in a final protective order under § 4-506(d)(1), (2), (3), (4), (5), or (12) of the Family Law Article in effect at the time of the violation.
2. A law enforcement officer shall arrest without a warrant and take into custody an individual who the officer has probable cause to believe is in violation of:
- A. The relief granted in an interim peace order under § 3-1503.1 of the Courts and Judicial Proceedings Article in effect at the time of the violation;
 - B. The relief granted in a temporary peace order under § 3-1504(a)(2) of the Courts and Judicial Proceedings Article in effect at the time of the violation; or,
 - C. The relief granted in a final peace order under § 3-1505(d)(1)(i), (ii), (iii), or (iv) of the Courts and Judicial Proceedings Article in effect at the time of the violation.
3. A law enforcement officer shall arrest without a warrant and take into custody an individual who the officer has probable cause to believe is in violation of an order for protection, as defined in § 4-508.1 of the Family Law Article, issued by a court of another state or a Native American tribe and is in effect at the time of the violation if the person seeking the assistance of the law enforcement officer:
- A. Has filed with the District Court or circuit court for the jurisdiction in which the person seeks assistance a copy of the order; or
 - B. Displays or presents to the law enforcement officer a copy of the order that appears valid on its face.

.20 ARRESTS WITHOUT A WARRANT PERMITTED FOR MOTOR VEHICLE OFFENSES:

Maryland law permits sworn police officers to make warrantless arrests for motor vehicle offenses under the following circumstances:

- 1. The person has committed or is committing the violation within the view or presence of the officer, and the violation is any of the following:
 - A. A violation of § 21-1411 or § 22-409 of the Transportation Article, relating to vehicles transporting hazardous materials; or
 - B. A violation of § 24-111 or § 24-111.1 of the Transportation Article, relating to the failure or refusal to submit a vehicle to a weighing or to remove excess weight from it.
- 2. The person has committed or is committing the violation within the view or presence of the officer, and either:
 - A. The person does not furnish satisfactory evidence of identity; or,
 - B. The officer has reasonable grounds to believe that the person will disregard a traffic citation.

3. The officer has probable cause to believe that the person has committed the violation, and the violation is any of the following offenses:
 - A. Driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, or in violation of an alcohol restriction;
 - B. Driving or attempting to drive while impaired by any drug, any combination of drugs, or any combination of one or more drugs and alcohol or while impaired by any controlled dangerous substance;
 - C. Failure to stop, give information, or render reasonable assistance, as required by §§ 20-102 and 20-104 of the Transportation Article, in the event of an accident resulting in bodily injury to or death of any person;
 - D. Driving or attempting to drive a motor vehicle while the driver's license or privilege to drive is suspended or revoked;
 - E. Failure to stop or give information, as required by §§ 20-103 through 20-105 of the Transportation Article, in the event of an accident resulting in damage to a vehicle or other property;
 - F. Any offense that caused or contributed to an accident resulting in bodily injury to or death of any person;
 - G. Fleeing or attempting to elude a police officer;
 - H. Driving or attempting to drive a vehicle in violation of § 16-101 of the Transportation Article;
 - I. Violation of § 14-110(b), (c), (d), or (e) of the Transportation Article; or
 - J. Violation of § 21-1116(a) of the Transportation Article that results in serious bodily injury to another person;
4. The person is a nonresident and the officer has probable cause to believe that:
 - A. The person has committed the violation; and,
 - B. The violation contributed to an accident.

.25 ARRESTS OF ILL PERSONS:

Maryland law requires that:

1. Before a law enforcement officer may charge with a crime a person who is found by the law enforcement officer in a semiconscious or unconscious condition, the law enforcement officer shall make a diligent effort to determine whether the person:
 - A. Suffers from epilepsy, diabetes, a cardiac condition, or another type of illness that causes semi-consciousness or unconsciousness; and,
 - B. Is carrying an identification bracelet, tag, or card that is engraved, stamped, or imprinted with the person's name, type of illness, physician's name, and required medication.

2. If the law enforcement officer determines that the person suffers from an illness that causes semi-consciousness or unconsciousness, and the person is carrying an identification card that is engraved, stamped, or imprinted with the person's name, type of illness, physician's name, and required medication, the law enforcement officer shall:
 - A. Notify the person's physician immediately; or,
 - B. Have the person immediately transported to:
 - (1) A physician; or,
 - (2) A facility where the services of a physician are available.

.30 RELEASE WITHOUT PLACING CHARGES:

1. A person who has been arrested without a warrant will be released from arrest without having charges placed against them if:
 - A. The arresting officer's supervisor or a member of the command staff determines that probable cause to arrest did not or does not exist; or,
 - B. The arresting officer, his supervisor, or a member of the command staff determines that, although probable cause to arrest did exist:
 - (1) There is not sufficient evidence to warrant further action against the arrestee; or,
 - (2) The placing of charges against the arrestee is not in the interest of justice.
2. In the event that a person who has been arrested without a warrant is to be released from arrest without having charges placed against them, the arresting officer will notify their immediate supervisor, or, in their absence, the on-duty Patrol supervisor. The notified supervisor will ensure that:
 - A. The situation, reason(s) for the arrest, and reason(s) for release without charging are fully explained to the arrestee and, if a juvenile, the arrestee's parent or guardian; and,
 - B. Arrangements are made for transportation of the arrestee back to the scene of the arrest or, at the request of the arrestee, to another reasonable location.
3. With the exception of charging documents and other District Court paperwork, the arresting officer will complete all of the paperwork required for an arrest under [G.O. 155, "Required Incident Paperwork."](#) The incident report will include a description of the probable cause upon which the arrest was based, the fact that the arrestee was actually arrested, and an explanation of the reason(s) for the decision to release the arrestee without charges. Officers/Supervisors will ensure the incident report narrative specifically states that the subject was, "released without criminal charges being placed." If a supervisor or command member made the decision to release without charges, that supervisor or command member will be responsible for explaining the reason(s) for the decision in an incident report narrative. Paperwork should be as complete as possible, but once the decision to release has been made, the arrestee's release should not be delayed solely to complete paperwork.
4. A copy of the incident report will be forwarded via chain of command to the Bureau Commander of the arresting officer. If any supervisor or commander in the chain of

command does not concur with the decisions or actions as described in the report, they will take appropriate action to document and resolve the situation. After review by the chain of command, the report and any additional documentation will be forwarded to the Professional Services Division for analysis and filing. Copies will be forwarded to the Training Division for review.

.35 PLACING CRIMINAL OR MOTOR VEHICLE CHARGES:

1. Unless they have been released under Section .30 of this General Order, under [G.O. 218, "Arrests for Motor Vehicle Offenses,"](#) under [G.O. 540, "Mentally Ill Persons,"](#) or under [G.O. 773, "Sick or Injured Prisoners,"](#) each adult or juvenile charged as an adult arrested without a warrant will be taken to the Central Booking facility at the Frederick County Adult Detention Center, where custody of the arrestee will be transferred to a FCADC correctional officer.
2. The arresting officer will ensure that one or both of the following are filed against the arrestee with the District Court as soon as practical, describing the charges to be placed:
 - A. Maryland Uniform Complaint and Citation(s); and/or,
 - B. A Statement of Charges.
3. The arresting officer will ensure that a Statement of Probable Cause is filed with the District Court as soon as practical, describing the probable cause upon which the arrest was made.
4. Juveniles arrested and charged as juveniles will be handled as described in [G.O. 520, "Juvenile Procedures."](#)