

Annapolis Police Department



GENERAL ORDER

Number: B.14

**Issue Date: December
2015**

TO: All Personnel

SUBJECT: Legally Mandated Authority

PURPOSE

The purpose of this General Order is to acknowledge that officers are vested with a wide range of authority and power granted to them by statute, ordinances, and the Charter and Code of the City of Annapolis.

POLICY

It shall be the policy of the Annapolis Police Department that all members observe Constitutional requirements in the discharge of their duties as prescribed by statute and the Charter and Code of the City of Annapolis.

I. Police Officers Duties Defined

- A. Maryland Annotated Code Article 41, Section 4-201 defines police officer as a person who has the authority to enforce the general criminal laws of this state and is a member, for Annapolis Police Department purposes, of any police department, bureau, or force of an incorporated city or town;
- B. Maryland Annotated Code, Transportation Article, Section 11-147 defines police officer as an officer authorized to direct or regulate traffic or to make arrests for violations of any of the provisions of the Maryland Vehicle Law, or of local or other traffic laws or regulations.

II. City Charter/Ordinances

- A. The City of Annapolis shall have all the powers granted in express words under the Constitution and laws of the State of Maryland, including but not limited to Article 23A of the Annotated Code of Maryland for exercise by municipalities, and those necessarily or fairly implied in or incident to the powers expressly granted, together with any and all powers essential to the accomplishment of the declared objects and purposes of the corporation.

- B. In addition to all powers granted to the City of Annapolis by its Charter (Article III Sec.1) or any other provision of law, the City may exercise any power or perform any function which is not now or hereafter denied to it by the Constitution of Maryland, this Charter, or any applicable law passed by the General Assembly of Maryland. The enumeration of powers and functions in its charter or elsewhere shall not be deemed to limit the power and authority granted to the City by this section.

- C. Article VI Section 8 of the Charter of the City of Annapolis bestows on the police department the following powers and duties:
 - 1. To preserve the public peace;
 - 2. To engage in programs of crime prevention;
 - 3. To apprehend individuals accused or suspected of committing crimes;
 - 4. To protect the rights of persons and properties;
 - 5. To establish and enforce policies, procedures, rules and regulations related to the parking of motor vehicles, subject to the approval of the City Council; and
 - 6. To enforce the law.

III. Enforcement of Laws Generally

- A. Officers shall enforce the applicable laws of:
 - 1. The City of Annapolis;
 - 2. The State of Maryland; and
 - 3. The United States of America.

- B. Officers enforcing these laws shall take the appropriate enforcement action given the circumstances of the situation which may range from a warning, to a citation, to a physical arrest.

- C. Officers shall enforce applicable laws during mutual aid or while exercising limited statewide jurisdiction.

IV. Authority, Generally

- A. Officers are authorized to take a juvenile into custody, pursuant to the provisions of Section 3-814 of the Courts and Judicial Proceedings Article of the Maryland Annotated Code under the following circumstances:
 - a. If the officer has reasonable grounds to believe that the juvenile has runaway from his parents, guardian or legal custodian, or
 - b. Pursuant to the laws of arrest, or
 - c. If the officer has reasonable grounds to believe the juvenile is in immediate danger due to his/her surroundings and his removal is necessary for his protection, or
 - d. Pursuant to an order of the court.

- B. A City of Annapolis police officer is authorized to take a person whom he has reason to believe has a mental disorder into custody, without a Court order, pursuant to the Maryland Code Health General, Sections b-620 through 10- 629, if the person is:
- a. Suffering from a mental disorder, and
 - b. Presents a danger to the life or safety of the individual or others.
 - c. A City of Annapolis police officer is authorized to take a person into custody pursuant to the Health- General Article of the Annotated code of Maryland, Section 10-622 upon receiving a court ordered petition.
 - d. When taken into custody, the person is to be transported to the nearest hospital.
- C. Officers are authorized to arrest individuals who are fugitives from other jurisdictions, and return said individuals to the jurisdiction that wants them in accordance with Maryland Code Criminal Procedure Title 9 Extradition.
- D. Pursuant to Maryland Code Correctional Services Title 6 Subtitle 1 Sec. 6-107, officers are authorized to arrest or retake an alleged parole violator.
- E. Officers are granted the authority authorized and required in Maryland Code Correctional Services Title 11 Subtitle 8 Sec 11-803, to arrest an escapee on the strength of a retake warrant issued by the administrator of a local or regional detention facility.
- F. Intrastate Fresh Pursuit - Authority to Arrest
1. Pursuant to Maryland Code Criminal Procedures Title 2 Subtitle 3 Sec 2-301 and Department policy, officers may engage in the fresh pursuit of a person, and exercise the authority provided in Number 2 below, if the person has committed, or is reasonably believed by the officer to have committed a felony in the City or has committed a misdemeanor in the officer's presence in the city.
 2. Under the circumstances listed above, and pursuant to Maryland Code Criminal Procedures Title 2 Subtitle 3 Sec 2-301 and Departmental Policy, an officer engaging in the aforementioned fresh pursuit may:
 - a. Arrest a person anywhere in the State and hold that person in custody, and
 - b. Return the person to the jurisdiction in which a court has proper venue for the criminal offense alleged to have been committed by that person.
 - c. Extra jurisdictional Police Powers refer to **General Order C.14**
- G. Authority to Maintain Custody of Prisoners During Transports is found in provisions of Maryland Code Law Enforcement Procedures Title 2 Subtitle 1 Sec2-106, an officer transporting a defendant to a District Court Commissioner in another County, has the same authority to maintain custody as if the arrested

person was being taken before a District Court Commissioner in Anne Arundel County.

H. Officers are authorized (when in their jurisdiction), pursuant to the Transportation Article of the Annotated Code of Maryland (hereafter referred to as TA) Section 26-201, to charge a person with a violation of any of the following, if an officer has probable cause to believe that the person has committed or is committing a violation of:

- a. The Maryland Vehicle Laws including any rule or regulation adopted under any of its provisions;
- b. A traffic law or ordinance of any local authority;
- c. Title 9, Subtitle 2 of the Tax-General Article;
- d. Title 9, Subtitle 3 of the Tax-General Article; or
- e. Title 10, Subtitle of the Business Regulations Article.

I. Authority to Arrest for Traffic Violations

1. Pursuant to the provisions of TA Sec 26-202, an officer may arrest a person without a warrant for a violation of the Maryland Vehicle Law, including any rule or regulation adopted under it, or for a violation of any traffic law or ordinance of any local authority of the State, if the person has committed or is committing the violation within the view or presence of an officer, and the violation is any of the following:

- a. A violation of TA Sec 21-1411 or TA Sec 22-409 relating to vehicles transporting hazardous materials;
- b. A violation of TA Sec 24-111 or TA Sec 24-111.1 relating to the failure or refusal to submit a vehicle for weighing or to remove excess weight from it.

2. An arrest is also authorized if a person has committed or is committing the violation within the view or presence of an 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. An arrest is authorized if an 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 under the influence of any drug, any combination of drugs, or any combination of drugs and alcohol or while under the influence of any controlled dangerous substance;

- c. Failure to stop, give information, or render reasonable assistance as required by TA Sec 20-102 and TA Sec 20-104, 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 TA Sec 20-103 through TA Sec 20-105 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; or,
 - g. Fleeing or attempting to elude a police officer.
4. Non-residents of Maryland may be arrested if an officer has probable cause to believe that:
 - a. The person has committed the violation; and,
 - b. The violation contributed to an accident.
 5. A person may be arrested if an officer has probable cause to believe that the person has committed the violation, and, subject to the provisions and procedures of TA Sec 26-203, the person is issued a citation and refuses to acknowledge its receipt by signature.
- J. Authority to Arrest for Certain Offenses Based on Probable Cause.
1. The provisions of the law which define the circumstances under which an officer may arrest must be strictly observed.
 2. No person may be arrested or detained except under the authority of law.
 3. An arrest is authorized either by warrant, issued by competent authority, or without a warrant in accordance with the Laws of Arrest as set forth hereunder:
 - a. **Probable Cause** to arrest exists where facts and circumstances, of which the officer has reasonably trustworthy information, would justify or lead a person of reasonable caution to believe that an offense has been committed and that the person to be arrested committed it;
 - b. Probable cause requires a reasonable belief, based on reliable evidence that the suspect has committed an offense,
 - c. Probable cause **must** go beyond mere suspicion, but is less than absolute certainty;
 - d. The lawfulness of an arrest is not affected by the fact that the arrested person may be found innocent later.
- K. Authority to Disregard Certain Traffic Laws in Certain Situations TA 21-106 allows officers who are responding to an emergency call or pursuing a violator or suspected violator of the law, or responding to, but not while returning from, a fire alarm to:
- a. Park or stand without regard to other provisions of TA, Title 21;

b. Refer to **General Orders F.2.**

L. Authority to Serve Warrants and Summons

1. In accordance with Maryland Rule 4-212, only police officers or sheriffs are authorized to serve criminal process.
2. Pursuant to Maryland Rule 4-412, an officer serving a warrant or summons shall give the defendant a copy of it.
3. When a warrant is placed into the hands of an officer, he/she is not bound to inquire into the particulars of the complaint, or whether any was even made.
4. If the warrant is in due form and issued by a person authorized to issue it, the officer's duty is to execute service of it and not to question it.
5. The warrant, which had been issued upon the finding of probable cause, will protect the officer.
6. A warrant remains in force until it is returned as served or recalled by the Court.
7. Even if the defendant has been arrested on the strength of a warrant and escapes, he/she may be arrested again on the same warrant, if it has not been returned.
8. Officers will not serve warrants in blank because they are void and therefore not valid for service.
9. A warrant will not be issued in blank with a view of later inserting the defendant's name, or other information.
10. No one, other than the warrant's issuer, has the right or authority to alter a warrant, because if altered by a third person, it would not be the warrant originally issued.
11. Refer to **General Order C.12.**

M. Authority to Execute Search Warrants

1. Officers are authorized to serve/execute Search Warrants, pursuant to the provisions of Maryland Code Criminal Procedures Title 1 Subtitle 2 Sec 1-203 and Maryland Rule 4-601.
2. A Search Warrant is signed and issued by a judge only, and must be executed within 15 (calendar) days from day of issuance or return promptly to the judge.
3. The Search Warrant requires an officer to whom it is addressed, to search a house or other structure, or other place, therein specified, for stolen contraband, or illicit property and if same shall be found upon such search, to bring the goods so found, together with the body of the person occupying house or structure who is named, before the issuing Judge or other member of the Court.

N. Authority to Arrest for Violations of Federal Laws

1. The Attorney General for the State of Maryland has rendered an opinion in Volume 56, Attorney General Opinions, 1971, pages 347-352, that Municipal and State Police Officers only have authority to arrest for Federal Law violations in three situations, as enumerated below:

- a. A police officer has the same authority to arrest as an ordinary citizen does if the violation amounts to a “Breach of the Peace. However, officers should be cautioned that a Breach of Peace has not been appropriately defined.
 - b. A police officer can arrest if a violation of a federal law amounting to a felony has been committed in the officer’s presence of view.
 - c. A police officer can arrest if there has been a Federal felony violation committed and the officer has a reasonable belief that the person committed the violation.
2. The Attorney General has also opined that since municipal police officers are not familiar with Federal law violations, it is best for municipal officers to contact the appropriate federal agency **before** invoking arrest powers.

O. Authority to Arrest Armed Forces Deserters

- 1. The Uniform Code of Military Justice sets out, and the Federal Courts have affirmed, the authority of civil law enforcement officers to arrest deserters from the armed forces and deliver him/her to the branch of the service from which he/she deserted.
- 2. Officers arresting a deserter will treat the offense as a **misdemeanor**, unless otherwise advised.

P. Authority to Carry and Use Weapons

- 1. Maryland Code Criminal Law Article Title 4 Subtitle 2 Sec 4-203 prohibits persons from wearing, carrying and or transporting various weapons. Each of these sections contains an exception for officers of this State, and of any County or City.
- 2. Officers shall only carry and use weapons which are issued and authorized by the department under **General Order C.2, C.3 and D.1.**

References
<ul style="list-style-type: none"> 1. Accreditation Standards 1.2.1, 1.2.2, 74.3.2 2. Maryland Criminal Code 3. Maryland Code Health General 4. Transportation Article of the Annotated Code of Maryland 5. Attorney Generals Opinion Volume 56 6. Uniform Code of Military Justice 7. Charter and Code of the City of Annapolis 8. General Orders C.2 Approved Weapons, Holsters and Ammunition C.3 Use of Force, C.12 Criminal Arrest policy, C.14 Extra jurisdictional Police Powers,D.1 Department Uniforms and Issued Equipment,F.4 Vehicle Pursuits,I.3 Response Codes for Calls for Police Service

Revision: This General Order replaces B.14 dated September 2013