



**CHEVY CHASE
VILLAGE
POLICE
DEPARTMENT**


Police Chief: John Fitzgerald

GENERAL ORDER: 5-29.1 ARRESTS WITHOUT WARRANTS

DATE: 3/18/2021 Pages: 3 ◇ New ◆ Amended

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I. POLICY

In Maryland, the laws of arrest without a warrant are codified in Title 2, Subtitle 2 of the Criminal Procedure Article of the Annotated Code of Maryland. Chevy Chase Village police officers shall have a thorough working knowledge of the laws of arrest, and all arrests shall be made in accordance with Maryland statutory law and the U.S. Constitution.

II. THE LAWS OF ARREST

A. Warrantless Arrests for Offenses Committed in an Officer's Presence or View

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 view of the police officer. (CP §2-202(a))
2. A police officer who has probable cause to believe that a felony or misdemeanor is being committed in the officer's presence or within the officer's view, may arrest without a warrant any person whom the officer reasonably believes to have committed the crime. (CP §2-202(b))
3. A police officer without a warrant may arrest a person if the officer 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 the presence or within the view of the police officer.* (CP §2-202(c))

B. Warrantless Arrest for Domestic Abuse (CP §2-204)

A police officer without a warrant may arrest a person if the officer has probable cause to believe that:

1. The person battered the person's spouse or another individual with whom the person resides; and
2. There is evidence of physical injury; and
3. Unless the person is immediately arrested, the person:
 - a. may not be apprehended; or

- b. may cause physical injury or property damage to another; or
 - c. The person may tamper with, dispose of, or destroy evidence; and
4. A report to the police was made within 48 hours of the alleged incident.

C. Warrantless Arrests for Stalking (CP §2-205)

A police officer without a warrant may arrest a person if:

1. the officer has probable cause to believe that the person has engaged in stalking under §3-802 of the Criminal Law Article; and
2. there is credible evidence other than the statements of the alleged stalking victim to support the officer's probable cause; and
3. the officer has reason to believe that the alleged stalking victim or another person is in danger of imminent bodily harm or death.

D. Warrantless Arrests for Specified Crimes (CP §2-203)

1. A police officer without a warrant may arrest a person if the officer has probable cause to believe that
 - a. the person has committed one of the specified crimes listed in section 2 below; and
 - b. unless the person is arrested immediately, the person:
 - may not be apprehended, or
 - may cause physical injury or property damage to another person; or
 - the person may tamper with, dispose of, or destroy evidence.

2. Specified crimes

- a. Theft (or attempt) under §7-104 of

the Criminal Law Article where the value of the property or services stolen is less than \$1,500.

- b. A crime (or attempt) that relates to controlled dangerous substances under Title 5 of the Criminal Law Article.
- c. The wearing, carrying, or transporting of a handgun under §4-203 or §4-204 of the Criminal Law Article.
- d. Carrying or wearing a concealed weapon under §4-101 of the Criminal Law Article.
- e. Malicious mischief (or attempt) under §6-301 of the Criminal Law Article.
- f. Violation of a condition of pre-trial or posttrial release under §5-213.1 of the Criminal Procedure Article.
- g. Indecent exposure under §11-107 of the Criminal Law Article.
- h. Malicious burning (or attempt) under §6-104 or §6-105 of the Criminal Law Article.
- i. Giving or causing to be given a false alarm of a fire under §9-604 of the Criminal Law Article.
- j. Manslaughter by vehicle or vessel under §2-209 of the Criminal Law Article.
- k. Prostitution and related crimes Title 11, Subtitle 3 of the Criminal Law Article.

III. WARRANTLESS ARRESTS OF FUGITIVES

- A. Pursuant to §9-114 of the Criminal Procedure Article of the Annotated Code of Maryland, a police officer without a warrant may arrest a person upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year.
- B. When so arrested, the accused shall be taken before a Judge or Court Commissioner with all practicable speed and complaint must be made against the accused, under oath, setting forth the ground for the arrest.

IV. WARRANTLESS ARRESTS MADE BY AN S.P.O.

A commissioned special police officer (SPO) may arrest an individual without a warrant pursuant to the Maryland laws of arrest. If a commissioned Special Police Officer (S.P.O.) has arrested a person for a felony, the responding Village officer will:

- A. Verify that the S.P.O. is a commissioned Special Police Officer.
- B. Obtain a signed statement from the S.P.O. which articulates the probable cause upon which the arrest was made. Officers must read the statement and independently determine that, in their judgment, there was probable cause for the arrest.
- C. **Felony crimes.** If the officer determines that probable cause exists to arrest the person for a felony, the officer shall transport the defendant either to the CPU (adult arrestee) or to the 2nd District Station (juvenile arrestee) for processing in accordance with Department policies and procedures. If the officer determines that there is not probable cause to arrest, the officers shall NOT arrest the individual, and the officer shall direct that the person immediately be released.
- D. **Misdemeanor crimes.** If the officer determines that probable cause exists to charge the person with a misdemeanor, and the SPO's arrest complied with Maryland law, officers shall:
 - 1. If the suspect is a citation-eligible adult and the misdemeanor is a citation-eligible offense, issue a criminal citation to the person in accord with Department policy (see General Order 5-29.2).
 - 2. If the suspect is not a citation-eligible adult, or if the misdemeanor is not a citation-eligible offense, arrest, transport and process the adult per Departmental policy.
 - 3. If the suspect is a juvenile, transport the juvenile to the County Police 2nd District Station for processing and follow the procedures in G.O. 5-36 and MCP Function Code 513 Section VI, 'Processing Arrested Juveniles.'

V. WARRANTLESS ARRESTS MADE BY SOMEONE OTHER THAN AN S.P.O. ('CITIZEN'S ARRESTS')

- A. In Maryland, a private individual may arrest a person in certain circumstances as follows:
 - 1. **Felony crimes.**
 - A private individual may arrest a person when a **felony** is being committed in the individual's presence, or
 - When a **felony** has been committed, whether or not in the individual's presence, and the individual has probable cause to believe that the person arrested committed it.
 - 2. **Misdemeanor crimes**
 - A private individual may make a warrantless misdemeanor arrest for a crime that amounts to a breach of the peace, or

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- The theft of one's own property, when the suspect still has possession of that property, for the purpose of recovering their property.
- B. If an officer responds to a situation where a private individual has made an arrest, the officer shall follow the below procedures:
1. Determine that the crime for which the person was arrested meets the criteria in item A immediately above.
 2. If the officer determines that probable cause to arrest the suspect does not exist, or the crime does not meet the above criteria, the officer shall NOT arrest the suspect and shall document the event in a report.
 3. If the officer determines that there is probable cause to arrest the suspect for a crime that meets the above criteria, obtain a written statement signed by the individual who made the arrest describing what occurred and articulating the probable cause for the defendant's arrest,
 4. If the crime is a **felony**, arrest, transport and process the suspect and complete all appropriate reports.
 5. If the crime is a **misdemeanor** and the circumstances meet the criteria for the officer to make a warrantless misdemeanor arrest (see Section I.D. above), arrest, transport and process the suspect in accord with Department policy.
 6. If the circumstances do not allow an officer to make a warrantless misdemeanor arrest:
 - Do NOT arrest the suspect;
 - Explain to the complainant that under Maryland law officers may not arrest the suspect;
 - Provide the complainant/victim with the suspect's I.D. information, the report number, and the procedures for applying for a charging document. The officer will note this advice in the incident report.

VI. ARREST AND RELEASE WITHOUT PLACING CHARGES

If an officer makes an arrest based upon probable cause, but thereafter determines that placing formal charges would be inappropriate, the officer shall release the defendant without unnecessary delay and fully document the incident in a 'Police Information' report.

This directive voids the previous version dated 3/10/2021.