

HAVERFORD TOWNSHIP POLICE DEPARTMENT OPERATIONS MANUAL



Issue Date	Review Date	Directive Number
February 2021	February 2022	1.2.4
Accreditation Index: 1.2.4		Rescinds: Directive 1.2.4 of November 2019
Chapter: One – Organization and Management Role		Section: Two – Limits of Authority
Chief of Police: <i>John F. Viola</i>		

SUBJECT: ARRESTS

I. PURPOSE

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

II. POLICY

Policing is an extraordinarily dynamic and complex endeavor. This Directive is established to define an officer's authority by defining that authority in terms of constitutional requirements, statute, case law, and the rules of criminal procedure. It shall be the policy of this Department to provide for and promote the delivery of police services corresponding to the provisions outlined in this Directive. This Directive further discusses the application of discretion to arrest alternatives.

III. PROCEDURES

A. Arrest with a Warrant

1. Officers shall arrest persons by warrant in accordance with the following procedures:
 - a) Pennsylvania Rules of Criminal Procedure Title 234, Chapter 4 & Chapter 5;

Governs criminal proceedings in all courts, including courts not of record. All actions involving arrests by warrant for Penal Laws of the Commonwealth of Pennsylvania must follow these rules.

- (1) Summary warrant issuance

- (a) Title 234 Chapter 4, Part D, rules 430-431, Issuance of a Warrant and Arrest with Warrant.
(PLEAC 1.2.4c)
- (2) Court case arrest warrant issuance, Title 234 Chapter 5, Part B (1), Arrest Procedures in Court Cases provides that the issuing authority shall issue a warrant of arrest when:
- (a) One or more of the offenses charged is a felony or murder; or
 - (b) The issuing authority has reasonable grounds for believing that the defendant will not obey a summons; or
 - (c) The issuing authority has reasonable grounds for believing that the defendant poses a threat of physical harm to any other person or to himself or herself; or
 - (d) The summons was mailed pursuant to Rule 511(A) and has been returned undelivered; or
 - (e) The identity of the defendant is unknown.
- (3) Title 234 Chapter 5, Part B (3)(a), Arrest Warrants, Rule 513, Requirements for Issuance.
- (a) No arrest warrant shall issue but upon probable cause supported by one or more affidavits sworn to before the issuing authority.
 - (b) Officers shall submit an Affidavit of Probable Cause, under the provisions of Title 234 Pennsylvania Rules of Criminal Procedure, with all Criminal Complaints where an arrest warrant is required or being requested.
- (PLEAC 1.2.4a)**

B. Arrests without a Warrant

1. Officers shall arrest persons without a warrant in accordance with the following procedures:
 - a) Pennsylvania Rules of Criminal Procedure Title 234, Chapter 4 & Chapter 5;

Governs criminal proceedings in all courts, including courts not of record. All actions involving arrests without warrant for Penal Laws of the Commonwealth of Pennsylvania must follow these rules.
- (1) Summary arrest procedures – Without Warrant

- (a) Title 234 Chapter 4, Rule 440, Procedures in Summary Cases When Defendant is Arrested Without Warrant; Chapter 4, Rule 441, Procedure Following Arrest Without Warrant.
- (2) Court case arrest procedures; Title 234 Chapter 5, Rule 502, Instituting Proceedings in Court Cases - Arrest without Warrant.
 - (a) Warrantless arrest is authorized when the offense is a murder, felony or misdemeanor committed in the presence of the officer making the arrest; or
 - (b) Warrantless arrest is authorized based upon probable cause when the offense is a felony or murder; or
 - (c) 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 warrant is specifically authorized by statute.
- (3) Chapter 5 Part (B3) (b) Arrest Without Warrant. Rule 519, Procedure in Court Cases Initiated by Arrest Without Warrant.
 - (a) **Preliminary Arraignment** - 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.
 - (b) **Release** - 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:
 - (i) 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;
 - (ii) The defendant poses no threat of immediate physical harm to any other person or to himself or herself; and

- (iii) The arresting officer has reasonable grounds to believe that the defendant will appear as required.

Note: *Title 18 Pa.C.S.A sect. 106 § (b) (9)*

Classification of offenses – “A crime declared to be a misdemeanor, without specification of degree, is of the third degree.”

“Reasonable grounds” as used in paragraph (b)(iii) would include such things as concerns about the validity of the defendant’s address, the defendant’s prior contacts with the criminal justice system, and the police officer’s personal knowledge of the defendant. — *Taken from “comment” in Rule 519 of Title 234 as published in PA Code*

Reminder: By statute, a defendant may not be released but must be brought before the issuing authority for a preliminary arraignment when a police officer has arrested the defendant for failure to comply with the registration requirements for sexual offenders, *see 18 Pa.C.S. § 4915.1(e) (2)*, or when a police officer has arrested the defendant in a domestic violence case, *see 18 Pa.C.S. § 2711* or violation of a PFA *see 23 Pa.C.S. § 6113(c) of the Protection from Abuse Act* or violation of a PFSV *see 42 PA C.S. 62A12 (b) Protection of Victims of Sexual Violence or Intimidation.*

- (c) When a defendant is released pursuant to paragraph (b), a complaint shall be filed against the defendant within 5 days of the defendant’s release. Thereafter, the issuing authority shall issue a summons, not a warrant of arrest, and shall proceed as provided in Rule 510 of Title 234 Pennsylvania Rules of Criminal Procedure.
- (d) Affidavits of Probable Cause are required when the defendant is taken before an issuing authority for formal contact with the criminal justice system through preliminary arraignment.

- b) Warrantless arrests authorized by statute.

- (1) Title 18 Pa C.S.A., Crimes Code of Pennsylvania, Chapter 27, Assault, Section 2711 (Probable cause arrests in domestic violence cases).
 - (a) A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504

- (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2706 (relating to terroristic threats) or 2709.1 (relating to stalking) against a family or household member although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence. For the purposes of this subsection, the term “family or household member” has the meaning given that term in 23 Pa.C.S. § 6102 (relating to definitions).
- (2) Title 18 Pa C.S.A, Crimes Code of Pennsylvania, Chapter 39, Theft and Related Offenses, Subchapter A, Section 3904
- (a) Officers shall have the same right of arrest without a warrant for any grade of theft as exists or may hereafter exist as in the case of the commission of a felony.
- (3) Title 75 Pa C.S.A, Vehicle Code of Pennsylvania, Chapter 63, Enforcement, Subchapter A, Section 6304, Authority to Arrest Without a Warrant
- (b) Other police officers.
- (a) Any police officer who is in uniform may arrest without a warrant any non-resident who violates any provision of this title in the presence of the police officer in 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.
- (4) Title 42 Pa. C.S.A Judiciary and Judicial Procedure, Section 8902 Arrest without warrant.
- (a) **General rule** - For any of the following offenses, a police officer shall, upon view, have the right of arrest without warrant upon probable cause when there is ongoing conduct that imperils the personal security of any person or endangers public or private property:

- (i) Under Title 18 (relating to crimes and offenses) when such offense constitutes a summary offense:
 - (a) 18 Pa.C.S. § 5503 (relating to disorderly conduct).
 - (b) 18 Pa.C.S. § 5505 (relating to public drunkenness).
 - (c) 18 Pa.C.S. § 5507 (relating to obstructing highways and other public passages).
 - (d) 18 Pa.C.S. § 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages).
 - (b) **Guidelines by governmental body** - The right of arrest without warrant under this section shall be permitted only after the governmental body employing the police officer promulgates guidelines to be followed by a police officer when making a warrantless arrest under this section.
- (5) Haverford Township Ordinance Ch 179.
Warrantless Arrest - § 179-1. Statutory authority.
- (a) Pursuant to 42 Pa.C.S.A. § 8902, any sworn officer of the Haverford Township Police Department shall be permitted to effect a warrantless arrest of a person violating the following provisions of Title 18, the Crimes Code, when there is ongoing conduct that imperils the personal security of any person or endangers public or private property:
 - (i) Section 5503 (relating to disorderly conduct).
 - (ii) Section 5505 (relating to public drunkenness).
 - (iii) Section 5507 (relating to obstructing highways and other public passages).
 - (iv) Section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages).

(PLEAC 1.2.4b)

2. Alternatives to Warrantless Arrest

a) Officers shall institute proceedings in cases based upon the following procedural guidelines.

b) Pennsylvania Rules of Criminal Procedure Title 234, Chapter 4 & Chapter 5;

Governs criminal proceedings in all courts, including courts not of record. All actions involving arrests with or without warrant for Penal Laws of the Commonwealth of Pennsylvania must follow these rules.

(1) **Summary arrest procedures:** Title 234 Chapter 4, Rule 400, Means of Instituting Proceedings in Summary Cases, sets rules governing the instituting of summary proceedings against defendants.

“...it is intended under these rules that a citation will be issued to the defendant except in exceptional circumstances (such as those involving violence, or the imminent threat of violence, or a danger that the defendant will flee). ...There may, however, be situations when it is not feasible to immediately issue a citation to the defendant; in these situations, the law enforcement officer would file a citation with the district justice...”

Committee Introduction to Chapter 4

(a) **Issuance of Citation - Chapter 4, Part (B)(1)** Procedures When Citation is Issued to Defendant, Rule 405 Issuance of Citation, et. Seq. - sets rules governing the instituting of summary proceedings against defendants by issuing the citation to the defendant at the time of the offense.

(b) **Filling Citation - Chapter 4, Part (B)(1)** Procedures When Citation is issued to Defendant, Rule 411 Procedures Following Filing of Citation, et. Seq. - sets rules governing the instituting of summary proceedings against defendants by filing the citation against the defendant following the offense.

(PLEAC 1.2.4c)

(2) **Institute proceedings in court cases –** Officers shall institute proceedings in court cases by summons based upon the following procedural guidelines.

(a) Pennsylvania Rules of Criminal Procedure Title 234, Chapter 5 - Rule 509, Use of Summons or Warrant of Arrest in Court

Cases provides for the charging a complaint by summons:

- (i) In cases in which 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 except as described above in section A.1.(a)(3) of this directive and Title 234.
- (ii) In cases where the defendant has been arrested and released pursuant to Rule 519, officers shall file a complaint against the defendant within five (5) days of the defendant's release. Thereafter, the issuing authority shall issue a summons, not a warrant of arrest, and the case shall proceed as provided for in Rule 510 of Title 234 Pennsylvania Rules of Criminal Procedure.
- (iii) Affidavits of Probable Cause
 - (a) Shall be completed and attached to Criminal Complaints as required by statute or local rule.

3. Informal Action

- a) In lieu of formal action, an officer may exercise discretion, consistent with the laws of the Commonwealth and the provisions of this Directive, and choose informal action to solve a given problem, such as referral, informal resolution, and written or verbal warning.
 - (1) **Referrals** – The officer shall offer referrals to other agencies and organizations when, in the officers discretionary judgment, it is the most reasonable alternative for the offender and the victim.
 - (2) **Informal Resolution** - An officer, at his/her discretion, may offer informal resolutions to situations and conflicts when in the officer's judgment they can be adequately resolved by the use of verbal warning; informing the proper agency or organization; advising parents of juvenile activity; etc.
 - (3) **Warnings** – A warning may be issued by an officer when, in his/her discretionary judgment, it is the

most reasonable alternative for the offender and the victim.

4. Discretion

- a) Discretionary power is the power of free decision or latitude of choice within legal bounds. When this power is poorly exercised, discretionary power may be viewed by the public as favoritism, bias or corruption.
- b) Therefore, it is imperative that when exercising discretionary power officers take into consideration the goals and objectives of the Department, the best interests of the public they serve, any mitigating circumstances, and the volatility of the situation at hand.

5. Insufficiency of Probable Cause

- a) If an individual is arrested on probable cause and further investigation by the arresting officer determines that sufficient probable cause no longer exists, a supervisor will be immediately notified. Once insufficiency of probable cause is determined, the suspect must be released.

C. Reporting and Processing

- 1. In all incidents of arrest with or without a warrant, reporting and processing (fingerprints and photographs) must be completed consistent with all applicable policies of this department.

BY ORDER OF THE CHIEF OF POLICE