

# CHAMPAIGN POLICE DEPARTMENT

## POLICY and PROCEDURE

POLICY NUMBER: 74.4

SUBJECT: LEGAL PROCESS - PROCEDURES

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PURPOSE:

The purpose of this policy and procedure statement is to provide direction and guidance regarding various legal processes associated with law enforcement, statutory bail provisions for release from custody, officer discretion to release from custody on a notice to appear, personal identification of offender, and release from full-custody arrest when there are no grounds for criminal complaint.

POLICY:

### 74.4.1 ARREST WARRANTS

- A. A "Warrant of Arrest" is a written order from a court directed to a peace officer, or to some other person specifically named, commanding the police to arrest a person.
- B. Warrant Arrest / Orders to Appear.
  - 1. The improper filing and general lack of control of a City of Champaign arrest warrant (a legal document) could result in the arresting officer being held civilly liable for damages. These considerations require:
    - a. All arrest warrants for quasi-criminal offenses and orders to appear which this department receives for execution will be delivered by City Legal or the court to the front desk of the police department. The designated PSR will be responsible for maintaining the warrant/order files. All valid information on warrants/orders will be made available to all officers of the department.
    - b. The warrants and orders will be kept on file at the front desk for at least one (1) year. Periodically, the information from the warrants will be forwarded to City Legal to

review. City Legal will make the determination as to whether to update or quash the warrant.

- c. After an arrest is made on a valid warrant the warrant will be deleted from the list of active warrants in ARMS
- d. No original copies of warrants will ever be removed from the files until such time that the warrant needs to be served. If information is needed from the warrant then the desk person will provide a photocopy of the warrant to the officer needing the information.
- e. Any person arrested on a warrant will immediately be transported to the Champaign County Correctional Center (CCCC). After arrival at the CCCC, the arrested person will be processed according to their normal booking procedures and requirements.

### 74.4.2 COURT APPEARANCE WITHOUT UNNECESSARY DELAY

- A. A person arrested without warrant shall be taken without unnecessary delay before the most accessible judge in the county and a charge filed. If it should appear that an arrestee in custody will not be able to be brought before a judge within 48 hours of his arrest, a supervisor shall be notified and guidance sought from the State's Attorney. (725 ILCS 5/109-1).
- B. A person arrested on a warrant must be taken without unnecessary delay before the issuing judge, or in his absence the most accessible judge in the county. (725 ILCS 5/109-1). Upon arrest the person will be taken to the Champaign County Correctional Center (CCCC). An individual may first be brought to CPD for an interview with the authorization of a supervisor.

### 74.4.3 EMPLOYEES REQUIRED TO APPEAR IN COURT

- A. Any employee demanded to appear, either by subpoena or official notification, is required to make such appearance. Any employee failing to appear without explicit consent of the court, the State's Attorney's office, or City Legal is subject to disciplinary action.
- B. Upon receipt, subpoenas will be forwarded to a shift supervisor for entry on the shift calendar.
- C. When testifying in court, all employees shall wear either their duty uniform or other proper suit or dress as is appropriate for the occasion.

#### 74.4.4 UNIFORM TRAFFIC TICKET (UTT)

- A. The arresting officer shall complete the Uniform Traffic Ticket and the Departmental copy shall be submitted to a supervisor and then forwarded to Records. Completed UTT's will be turned into shift command prior to the end of the shift. Within 48 hours after the arrest, the court officer shall deliver the UTT copies entitled Complaint, Disposition Record and Report of Conviction to the Clerk of the Circuit Court. (Supreme Court Rule 552)
- B. Any minor alleged to have committed a traffic violation, whether the violation is punishable by imprisonment or fine only, may be prosecuted therefore and if found guilty, punished under the statute or ordinance relating thereto, without reference to the procedures set forth in the Juvenile Court Act. (705 ILCS 405/5-4(2))
- C. Mandatory court appearance traffic offenses are indicated by an asterisk (\*) in the section column of the Bond and Offense Classification Schedule.
  - 1. Court appearances are also required for all traffic offenses which result in a fatality to any person or injury to any person other than the accused.
  - 2. An officer may not require a court appearance for a non-mandatory appearance violation.
- D. Bail for traffic offenses is governed by Supreme Court Rule 526.
- E. Release from custody options available to persons cited for traffic offenses who reside in Illinois include:
  - 1. Valid Illinois driver's license.
  - 2. Valid bond certificate.
  - 3. Cash bail.
  - 4. Notice to appear.
  - 5. Individual signature bond (I-bond).
  - 6. Take violator before a court without unnecessary delay.
- F. Release from custody options available to cited persons who reside in other states include:
  - 1. Valid bond certificate.
  - 2. Cash bail.
  - 3. Notice to appear.
  - 4. Take violator before a court without unnecessary delay.
  - 5. Written promise to comply for residents of Non-Resident Violator Compact States for specified offense.
- G. Statutory bail provisions do not limit a peace officer's discretion to issue a notice to appear. If a defendant does not have the means to post bail, a Notice to

Appear or I-Bond will be issued in lieu of a full custody arrest for all minor traffic violations.

#### 74.4.5 BAIL

- A. It is the policy of this department to provide officer discretion for appropriate release of arrested persons as provided by statutory bail provisions.
- B. A Bond and Offense Classification Schedule is available for guidance in use of this discretion for criminal, quasi-criminal, and traffic offenses.
- C. If bail is taken, the officer shall comply with statutory bail provisions for the release of arrested persons from custody as specified by Supreme Court Rules 553, 526, 528, and 530. If a violator does not wish to post his/her driver's license, another option would be the use of an I-Bond.
  - 1. However, nothing in these Supreme Court Rules is intended to limit a peace officer's discretion to issue a notice to appear as provided by 725 ILCS 5/107-12.
  - 2. The bail provisions of Supreme Court Rules 526 and 528 do not apply to warrant arrests.
- D. Alternative methods of posting bail are specified in Supreme Court Rule 553 and authorize law enforcement officers designated by name or office by the chief judge of the circuit to let to bail any person arrested for traffic offenses covered by Supreme Court Rule 526, ordinance offenses, petty offenses, business offenses, and certain misdemeanors other than traffic offenses as specified by Rule 528. All Champaign Police Officers have been designated by the Chief Judge of the local circuit court.
  - 1. Where bond may be taken - Such bail may be taken in any county or municipal building, police station, or jail.
  - 2. Copy of bond and receipt - A carbon copy of the bond or an official receipt showing the amount of cash bail posted and specifying the time and place of court appearance shall be furnished to the accused and shall constitute a receipt for bail. The "violators copy" of the traffic citation shall be used for this purpose. The bond, cash bail, or other shall be delivered to the office of the circuit clerk of the county in which the violation occurred within 48 hours of receipt.
  - 3. Driver's license or bond certificate - If an accused person deposits a driver's license with the arresting officer in lieu of bail or in addition to bail, or deposits a bond certificate, the arresting officer shall note that fact on the violator's copy of the ticket and transmit the driver's license or bond certificate to the clerk within 48 hours of receipt.
  - 4. Mail drop - In any case in which the bail specified by Rule 526, 527, or 528 does not exceed \$105, an accused may place cash bail (in the amount required by such rule) in a stamped envelope (to be provided by the arresting officer) addressed to the Clerk of the Circuit Court of the county in which the violation occurred and, in the presence

of the arresting officer, deposit that envelope in a United States Government mail box. The accused shall then be released from custody. The appropriate portion(s) of the ticket shall be enclosed with the cash bail.

- C. When bail has been set by a judge for a particular offense or offender any peace officer may take bail as specified in 725 ILCS 5/110-7 or 110-9 and release the offender to appear in court as specified in the bail bond, notice to appear, or summons. The officer shall give a receipt to the offender for the bail and within a reasonable time deposit such bail with the Clerk of the Circuit Court. (725 ILCS 5/110-9).
- D. Supreme Court Rule 530 specifies that the 10% cash deposit provision Section 110-7 applies in every case that bail is \$500 or more except truck violations.

#### 74.4.6 PROCESSING

- A. All arrested persons 17 years of age or older arrested for violation of any penal statute of this State and not released will be taken to the Champaign County Correctional Center for processing.
- B. Photographs, fingerprints, palm prints, a handwriting sample, and identification information may be taken for delinquent minors who are taken into custody for felony offenses, theft, or who are habitual runaways.
  - 1. Photographs and/or fingerprints of a minor arrested or taken into custody before the minor's 17<sup>th</sup> birthday shall not be transmitted to the Adult Division of the Department of Corrections, the Department of State Police, or the Federal Bureau of Investigation except by court order, unless the court authorizes the transmission or enters an order under Section 5-4 of the Juvenile Court Act permitting or requiring the institution of criminal proceedings (705 ILCS 405/1-7(B)(1)) or when otherwise allowed or required by law.
  - 2. Personal identification records (and other records) of minors under 17 years of age must be maintained separate from records of arrests, disclosed to the public except by court order. (705 ILCS 405/1-7(C)).

#### 74.4.7 LINE-UP GUIDELINES

- A. 725 ILCS 5/107(A) imposes procedures for conducting live line-ups and photo line-ups, either sequentially or simultaneously.
- B. 725 ILCS 5/107(A) requires that all line-ups, either live or photo, be conducted using one of the following four (4) methods:
  - 1. By an Independent Administrator, unless impractical. An "Independent Administrator" is defined as an individual who is not participating in the investigation of the offense involved and who is unaware of which person in the line-up is the suspected offender;
  - 2. By use of an automated computer program which automatically displays a photo line-up, either sequentially or simultaneously, to the witness but prevents the line-up Administrator from seeing

which photographs the witness is viewing until after the line-up has been completed;

- 3. By placing photographs in randomly numbered folders, shuffling them, and presenting them to the witness in a manner that prevents the Administrator from seeing the photographs or knowing which photographs are being viewed by the witness until after the line-up has been completed; or
- 4. By any other procedure which prevents the Administrator from knowing the identity of the suspected offender or seeing or knowing the persons or photographs being viewed by the witness until after the line-up has been completed.
  - a. The use of an "Independent Administrator" is required only if/when one of the other alternatives is not utilized.
  - b. These requirements allow for the use of a traditional photo line-up which includes a photograph of the suspect and five (5) "filler" photographs when the traditional photo line-up is presented by an "Independent Administrator."
- C. The following rules apply to every line-up, whether live, photo, sequential, or simultaneous:
  - 1. When practical, the Administrator shall separate all of the witnesses to prevent them from conferring before or during the presentation of the line-up;
    - a. If it is not practical to separate the witnesses they must be monitored to ensure that they do not confer either while waiting to view or viewing the line-up.
  - 2. Each witness shall be given the required instructions and then view the line-up without any other witness(es) present;
  - 3. Only one (1) suspect shall be included in any single line-up;
  - 4. The suspect must not appear substantially different from the fillers;
  - 5. At least five (5) fillers should be used in either a live or photo line-up, but under no circumstances shall less than three (3) fillers be used in a live line-up;
  - 6. If a witness has previously viewed a line-up (live or photo) in connection with another suspect in the same offense, different fillers must be used;
  - 7. If there are multiple witnesses, the suspect must be placed in a different position in the line-up (live or photo) shown to each witness;
  - 8. Nothing can be communicated to the witness concerning the suspect's position in the line-up, nor may any other information which might influence identification be communicated;

9. No writing or other information concerning any previous arrest, indictment, or conviction shall be visible or made known to a witness;
  10. If a photo line-up is used, the photograph of the suspect shall be contemporary in relation to the fillers and shall, if practical, resemble the suspect's appearance at the time of the offense;
  11. If a live line-up is used, any identifying actions must be performed by all participants;
  12. If a live line-up is used, all participants must be out of view of the witness before the line-up begins;
  13. The Administrator must document any statements made by a witness during the line-up;
  14. If a witness identifies a person as the offender, they cannot be provided with any information about that person until the line-up is completed;
- D. The following rules apply to sequential line-ups:
1. If the witness identifies a person or photograph prior to completing the entire line-up, the Administrator shall continue to present persons or photographs sequentially until the witness has viewed all of them; and
  2. The witness may only view a particular person or photograph once, unless the witness requests to do so a second time; and
  3. If the witness requests to view a person or photograph a second time, they may do so only after first viewing all of the persons or photographs once.
- E. Prior to conducting any line-up (live or photo), the witness must be told the following:
1. An audio and video recording of the line-up will be made for the purpose of accurately documenting all statements made by the witness, unless the witness refuses the recording, and that the recording will be of the persons in the line-up and of the witness;
  2. The perpetrator may or may not be in the line-up;
  3. If an Independent Administrator is used, that the Independent Administrator does not know the suspected perpetrator's identity;
  4. If an Independent Administrator is not used, that the witness should not assume that the Administrator knows which person in the line-up is the perpetrator;
  5. The witness should not feel compelled to make an identification;
  6. It is just as important to exclude innocent persons as it is to identify the perpetrator; and
  7. The investigation will continue regardless of whether or not identification is made.
- F. All line-ups must be video recorded. The only exceptions to video recording are if it is "not practical" to make a video recording or the witness refuses to allow it. If video recording is "not practical," an audio recording must be made unless it is also "not practical."
1. If no video recording is made, the reasons which made the recording "not practical" must be documented in an official police report.
  2. If no audio recording is made, the reasons which made the recording "not practical" must be documented in an official police report.
  3. If the witness refuses to be video recorded, the reason for the refusal must be documented in an official police report.
  4. If a live line-up is not recorded, it must be photographed.
- G. For all line-ups (live or photo), the Administrator must prepare an official police report. The official police report must include the following:
1. Any identification or lack of identification by the witness and any statements made by the witness concerning the identity of the offender. These shall be signed by the witness unless he or she refuses to do so;
  2. The names of all persons who viewed the line-up;
  3. The names of all law enforcement officers and attorneys who were present for the line-up;
  4. The date, time, and location of the line-up;
  5. Whether a live or photo line-up was used and how many persons or photographs were used;
  6. The source of all photographs or persons used;
  7. If a photo line-up is conducted, then the actual photographs shall be included with the official police report;
  8. If a live line-up is conducted, then a photograph or video recording shall be included with the official police report;
  9. The refusal of a(ny) witness to be recorded, if applicable; and
  10. The reason(s) for the impracticability of strict compliance, if applicable.
- H. 725 ILCS 5/107(A) does not distinctly address the issue of presenting a witness with a single suspect photograph or using an individual in-person suspect in cases in which the victim or witness has indicated that they already know the suspect. It does, however, define "Photo Line-up" as "a procedure in which photographs are displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of a crime." Given this definition, officers are required to follow all line-up procedures even when showing a victim or witness a

single photograph of a suspect previously known to that person. This will include requirements pertaining to recording, admonition, and reporting.

- I. 725 ILCS 5/107(A) specifically distinguishes and excludes a “show-up” from the definition of a live line-up.
  1. The statute defines “show-up” as a “procedure in which the suspected perpetrator is presented to an eyewitness at or near a crimes scene for the purpose of obtaining an immediate identification.”
  2. Accordingly, 725 ILCS 5/107(A) does not apply to the use of a “show-up.”

#### **74.4.8 RELEASE OF ARRESTED PERSON**

- A. An officer may release from custody a person whom he has arrested without warrant if, after arresting him, the officer determines there were no grounds for filing a criminal complaint against the person. 725ILCS 5/107(6).
- B. No entry of such released persons shall be entered on to an arrest card, the arrest log, or the arrest files. However, a complete incident report shall be submitted by the arresting officer to document the probable cause for the arrest, the time and location of arrest, the additional information which established no grounds for criminal complaint, and the time and location of release from custody.

#### **74.4.9 SIGN LANGUAGE INTERPRETATION FOR HEARING-IMPAIRED PERSONS**

- A. The requirements for this standard are delineated in Policy **41.16**.

#### **74.4.10 LANGUAGE INTERPRETATION**

- A. During any police contact with a non-English speaking person in which the non-English speaking person is entitled to an advisement of rights, those rights shall be communicated to that individual in such a manner that makes it clear that the individual understands their rights.
  1. Many of the forms that the Department utilizes to provide citizens with written notice of their rights are available in Spanish.
- B. The Front Desk also maintains a list of foreign language interpreters who are available 24 hours per day and can be called upon to assist during police contacts with non-English speaking persons.

#### **ISSUING AUTHORITY**



Anthony D. Cobb  
Chief of Police  
Champaign Police Department