

**The Pennsylvania State University
Police & Public Safety Department**

Policy and Procedural Order

SUBJECT			
5.12 Arrests			
CALEA REF:	1.2.5, 1.2.6, 41.3.6, 74.3.1, 74.3.2	EFFECTIVE DATE	REVISED DATE
PLEAC REF:	1.2.4, 4.4.1	5/22/19	6/26/25
APPROVED BY	Chief of Police and Public Safety, Wesley Sheets		ASSIGNED TO GROUP(s): <i>WJR</i> 6

This Policy is for departmental use only and does not apply in any criminal or civil proceeding. This Policy should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this Policy will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting

I. PURPOSE

The purpose of this policy is to establish the responsibility and standards for arrest processing by the Pennsylvania State University Police and Public Safety Department (UPPS).

II. POLICY

It is the UPPS's policy to process those persons so accused of committing a crime or violation without unnecessary delay, and to determine qualifications for release as soon as possible.

III. DEFINITIONS

- A. **Arrestee**: A person taken into custody by a UPPS police officer, with or without a warrant.
- B. **Booking**: A procedure for admitting a person charged with an offense to the appropriate county holding facility, including searching, fingerprinting, photographing, medical screening, collecting personal history data, and inventorying and storing a person's property.
- C. **Contraband**: Any item that is illegal to possess, to include items that are not permitted within a holding facility because of their possible use to disrupt security measures within the facility.
- D. **Custody**: Legal or physical control of a person in an area or facility or while in transit; legal, supervisory, or physical responsibility for a person.
- E. **Detainee**: A person in the custody of UPPS personnel and whose freedom of movement is at the will of agency personnel.
- F. **Disabled Detainee**: A detainee with an anatomical, physiological, or mental impairment that hinders mobility.
- G. **Inventory**: A detailed, itemized list, report, or record of items in one's possession or the process of making such a list, report, or record.
- H. **Processing**: Pre-booking and booking activities involving detainees in custody, after which detainees may either be released from the custody of or held by UPPS.
- I. **Restraining Devices**: Equipment used to restrain the movement of the prisoner, such as handcuffs, flex-cuffs, waist chains, ankle chains, restraining straps, strait jackets, or tie-down stretchers.
- J. **Strip Search**: A strip search is defined as having an arrested person remove or arrange some or all of his or her clothing, or, if an arrested person refuses to remove or arrange his or her clothing, having an officer remove or arrange the clothing of the arrested person so as to permit a visual inspection of the genitals, buttocks, anus, breasts, or undergarments used to clothe said anatomical parts of the body.

IV. PROCEDURES

- A. Arrest Authority

1. Only Sworn Officers are authorized to make arrests with or without a warrant pursuant to Title 234 of the Pennsylvania Rules of Criminal Procedure (ROCP) (74.3.2).
- B. Arrests With A Warrant (1.2.5, 74.3.1) (1.2.4)
 1. The Pennsylvania Judicial Code (Title 42 Sections 5551, 5552, 5553 and 5554) governs the time limitations for prosecution of offenses.
 2. When an officer possesses a valid felony arrest warrant for a suspect and reasonably believes the suspect is inside his or her residence the officer may force entry to make an arrest. Unless there are exigent circumstances officers will normally not force entry to serve a misdemeanor warrant.
 3. Officers are not authorized to serve an arrest warrant at a third-party residence unless the officer has secured a search warrant along with the arrest warrant.
 4. While many arrests are spontaneous in nature, some events such as serving dangerous search warrants allow time for planning. Where the opportunity to plan exists, officers will consult with their supervisor to develop a plan for the arrest and take known risks into account. All officers directly involved with high risk, pre-planned incidents will wear additional body armor (i.e. level III vest). In these instances, officers will document in their use of force report that they wore extra body armor in the service of the warrant (41.3.6). If the officers assignment is such that wearing body armor may compromise the mission (such as an undercover officer who may be searched), that officer will consult with their supervisor on the matter.
 5. Warrants served in the local area, but off campus and out of the campus jurisdiction may be served only with the permission of the law enforcement agency having jurisdiction (Act 141 of 1982).
 - a. When executing a warrant off of the campus, contact the agency of jurisdiction and request personnel from that agency be present or advise, that UPPS is serving a warrant, dependant on each campuses mutual aid agreement.
 - b. The names of the officers with that jurisdiction who are present are to be included in the Incident Report.
 6. Officers may use all resources available to them to locate the subject of an arrest warrant
 - a. Since arrest warrants must be regularly worked, to show due diligence, all attempts to serve the warrant will be documented in an Incident or Supplemental Report, whichever is most appropriate.
 7. If there is cause to request an arrest warrant be sealed for 72 hours, the officer is to make that request by added a last paragraph to the affidavit of probable cause.
- C. Arrests Without a Warrant (1.2.5) (1.2.4)
 1. Arrests without a warrant for felony and misdemeanors may be made in conformance with Pennsylvania Rules of Criminal Procedure (ROCP) Chapter 4 and Chapter 5.
 2. Felony arrests may be made without a warrant whenever the felony is committed in the presence of the officer or the officer has probable cause to believe the person detained has committed a felony.
 3. Misdemeanor arrests may be made without a warrant:
 - a. When the misdemeanor is committed in the presence of the police officer making the arrest; or
 - b. Upon probable cause when the offense is a misdemeanor not committed in the presence of the police officer making the arrest, when the arrest without a warrant is specifically authorized by Pennsylvania law (See PA Crimes Code).
 4. Physical arrest for summary offenses may be made without a warrant when, upon view, upon probable cause, when there is ongoing conduct that imperils the personal

security of any person or endangers public or private property for the following offenses (1.2.4c):

- a. Disorderly Conduct;
- b. Public Drunkenness;
- c. Obstructing highways and other public passages; and,
- d. Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages.

5. Case Law: Criminal arrests by sworn personnel of this Department will be made in compliance with the specific judicial decisions of the United States Supreme Court, the Pennsylvania Supreme Court, other courts, and legislation governing the rights of the accused, procedures for the arrest, and procedures for the search and seizure of evidence.

D. Summons Release in the Field (1.2.6)

1. In lieu of a physical arrest for a misdemeanor or violation an officer may instead issue the person a written summons.

E. Exception to Release in the Field

- 1. An officer making an arrest for the following offenses will take the arrestee into custody and transport the arrestee to the appropriate county booking center for formal booking and processing, or process based upon county procedures:
 - a. Any misdemeanor offense involving domestic violence;
 - b. Any misdemeanor offense involving domestic problems; however, an exception to this procedure would be the case where both parents are subject to arrest and children are present in the home and need to be cared for. A summons to one of the parents may be issued upon approval of a supervisor.
 - c. Any misdemeanor offense involving any person not known to the arresting officer and who cannot produce sufficient, credible identification (employee photo ID, driver's license, etc.)
 - d. Any offender taken into custody for Driving Under the Influence.
 - e. In any misdemeanor case involving a person residing in another state or a person known to be a repeat criminal offender who has no ties to the area (i.e. students, or others with ties to the University).

F. Detainee Search Procedures

- 1. Officers will conduct a systematic, thorough, and complete search of all arrested individuals in the custody of UPPS at the time of arrest. Officers will wear protective gloves when conducting a search in order to prevent exposure or injury due to the possible presence of bloodborne pathogens, needles, syringes, and other "sharps". Custody searches will be conducted without removing all detainee clothing. Strip and/or Body Cavity searches will only be conducted pursuant to UPPS Policy.

G. Inventory of Detainee Property

- 1. Every custody search will include an itemized inventory of the property taken from all detainees at the time of arrest. The inventory will be recorded in the narrative of the Incident Report. Containers, packages, pill boxes, etc., will be inspected and opened. The illegal contents of any container or package will be documented in the evidence tab. The narrative of the Incident Report will indicate which items, if any, may be retained by the detainee, and which may not. All contraband will be seized and logged into evidence at the time of the arrest. Contraband will not be returned to any detainee upon release. If the detainee refuses to sign for the inventory, then it should be so noted and witnessed. A copy of the inventory will be printed and will remain in the locker with the prisoner's personal belongings.

H. Off Site Arrests and Out of Town Arrest Warrants (1.2.5)

1. Officers will refer to UPPS policy on jurisdiction, with regard to territorial limits of UPPS police officers to execute criminal process.
2. Whenever an officer has reason to believe a suspect is wanted on a warrant from another jurisdiction the officer will ask communications to confirm the validity of the warrant before transporting a suspect to Booking.

I. Identification of Detainee Prior to Release

1. The arresting officer has a responsibility to make every effort to identify the arrested party prior to transporting or turning over the detainee to the county booking center.

J. Release Without Charges

1. If someone is arrested based on the reasonable belief of an officer at the time, but further investigation or additional information reveals that sufficient probable cause no longer exists, the officer's supervisor will be immediately notified.
2. It is the responsibility of the supervisor to review all offenses charged and to cause release of persons who cannot be charged due to lack of evidence or when such release would be in the best interest of justice.
3. Once this situation is determined, the supervisor must cause the arrested individual to be released immediately and:
 - a. Inform the person that he or she does not have to appear in court;
 - b. Not require the person to sign a promise to appear form; and
 - c. Will not submit charges to the court.
4. The supervisor will prepare the Supplementary Incident Report.

K. Officer Responsibilities

1. Where a summary offense is not committed in the presence of the investigating officer, he/she is to file a citation with the Magistrate in order that a detached judicial officer may review the probable cause before the offender is required to post bond.
2. If the offense committed is a misdemeanor or felony, no citation is to be issued for a summary offense without the concurrence of the District Attorney.
3. If a summary offense arises from the same criminal episode as more serious offenses, no citation will be issued, but the summary offense will be added on to a criminal complaint with the more serious offense(s).
4. When an officer issues or files two or more summary citations to a single person, the joinder form must be filled out and attached to the citations and report prior to turning in the report and sending the citations to the Magisterial District Judge.
5. When an offender has committed offenses in other jurisdictions as a result of the same criminal episode, the arresting officer will coordinate with those law enforcement agencies and the District Attorney.
6. It is the arresting officers responsibility to ensure all persons arrested for felony, misdemeanor, and escalating summary offenses are fingerprinted (4.4.1a)

L. Supervisor Responsibilities

The supervisor (if available and on duty) is responsible for ensuring that all necessary paperwork is fully and properly completed and that all established arrest processing procedures have been followed prior to allowing the detainee to be released.

M. Arrest and Detention of Undocumented Persons/Illegal Immigrants

The UPPS conforms to federal laws and international treaties when detaining foreign nationals or undocumented persons/suspected illegal immigrants. However, UPPS does not determine alienage. The Immigration and Custom Enforcement (ICE) has primary jurisdiction for the enforcement of the law and of the provisions of Title 8, U.S. Code dealing with illegal entry etc.

1. Determination of Immigrant Status

The determination of immigration status is primarily the jurisdiction of the Immigration and Custom Enforcement (ICE).

2. Protocols for Suspected Undocumented Persons/Illegal Immigrants who are under arrest
 - a. Whenever there is suspicion that an arrested party may also be an undocumented person/illegal immigrant, the arresting officer will:
 - i. Notify a supervisor of his/her suspicion and the reasons for the suspicion;
 - ii. Document the suspicion on an Incident Report; and
 - iii. Forward a copy of the Incident Report to the Criminal Investigation Unit;
 - b. The Supervisor will:
 - i. Review all reports;
 - ii. Ensure that an NCIC and in-house check is completed;
 - iii. Contact the ICE 24 hour service number; and
 - iv. A person's immigration status, race, gender, religion, sexual orientation, age, occupation or other arbitrary aspects shall have no bearing on the officer's decision to arrest.
3. Protocols for Suspected Undocumented Persons/Illegal Immigrants Who are Not Under Arrest
 - a. UPPS is concerned with the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any subject. Whenever an officer comes into contact with a criminal suspect who is also a suspected undocumented person/illegal immigrant, the officer will treat the person as any other criminal suspect. This includes complying with the requirements of Terry v. Ohio, et seq, the Miranda decision, and departmental policy regarding investigative detentions and documentation. Any detention by a member of UPPS will be based upon the reasonable suspicion that an individual is involved in criminal activity.
4. Protocols for Victims and Witnesses Who are Suspected to be Undocumented Persons/Illegal Immigrants
 - a. Generally, UPPS employees will not question victims or witnesses of criminal acts about their immigration status and will take no action to report a victim or witness of a crime to the ICE unless said victim or witness is a suspect in a criminal matter. In such event, sworn personnel will first obtain from UPPS supervisory personnel, authorization to report to ICE.
5. Assisting ICE
 - a. If ICE or some other federal agency makes a specific request concerning suspected or actual criminal activity or actors, UPPS will provide available support services during the federal operations.
6. Requests from ICE
 - a. UPPS will cooperate with all law enforcement entities which request that UPPS hold or detain persons suspected of criminal activity. UPPS will honor any request from ICE to detain or hold a person suspected of criminal activity. If such a request is made, the officer holding said suspect, upon notice of such hold from supervisory personnel, will make a note on the Incident Report in the following manner:

"HOLD FOR ICE PER AGENT JOHN DOE"

- b. The officer will also document the request in the Incident Report and include the following information:
 - i. The name of the agent;
 - ii. The date and time notification was made to ICE;
 - iii. Any specific details regarding why the request was made;

- iv. Any instructions from ICE; and
- v. The date and time ICE will respond.

- c. If at any point ICE decides that the individual should not be held, then the officer will in accordance with UPPS policies, immediately release the individual unless other criminal matters exist. The officer will document ICE's decision or subsequent decision to not detain on an Incident Report and will include the following information:
 - i. The name of the agent
 - ii. The date and time notification was made to ICE
 - iii. Any details regarding ICE's decision.
 - iv. The date and time of ICE's subsequent decision to not detain
 - v. The date and time of the release of the individual

7. Procedures for Immigration Complaints

- a. Any civilian wishing to report immigration violations should be referred to the Department of Homeland Security- Immigration and Custom Enforcement Tip Line.

Updates:

- 9/28/23: Title changes made
- 9/17/24: PLEAC Reference added. Section IV.C.4 added, Section IV.K.6 added