

# Abington Township Police Department Policy and Procedure Manual

<b>Chapter:</b>	Law Enforcement Role and Authority	<b>General Order:</b>	1.2.5
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## I. PURPOSE

The purpose of this general order is to define the authority of officers to arrest, the mechanism for making arrests with and without a warrant, and recording arrest information and mandatory fingerprinting requirements.

## II. POLICY

Short of the application of force, an arrest is the most serious action an officer can undertake. An arrest can cause repercussions throughout a person's life, even if he or she is eventually found not guilty or never brought to trial. Officers shall accordingly exercise critical judgment in making arrests. Such judgment includes consideration for bystanders, the time, place, and location of offenses, and the use of force in making the arrests. Officers may consider other lawful alternatives to arrest consistent with carrying out their law enforcement mission.

It is the policy of the Abington Township Police Department to comply with Section '9112 of the Pennsylvania Crimes Code (Title 18) in regard to mandatory fingerprinting requirements.

## III. DEFINITIONS

A. Definition of arrest: An arrest constitutes a seizure of the person for Fourth Amendment purposes. Further, the Fourth Amendment requires probable cause to arrest. The test, in interviews or stops of persons, for whether an arrest has occurred or a seizure of the person, is whether a reasonable person under the circumstances would have felt free to leave.

#### IV. PROCEDURE

- A. The power of arrest granted to Act 120 Certified police officers is one of the alternatives available under circumstances that require some form of police action.
- B. Arrest with a warrant
  - 1. Officers shall arrest persons by warrant in accordance with the procedures located in the Pennsylvania Rules of Criminal Procedure Title 234, the Pennsylvania Rules of Criminal Procedure.
- C. Arrest Without a Warrant
  - 1. Officers shall arrest persons without a warrant in accordance with the procedures located in the Pennsylvania Rules of Criminal Procedure Title 234, the Pennsylvania Rules of Criminal Procedure.
  - 2. Warrant less arrests authorized by statute
    - a. Title 18, Crimes Code of Pennsylvania, Chapter 27, Assaults, Section 2711
      - (1) Officers shall have the same right of arrest without a warrant as in a felony whenever he/she has probable cause to believe the defendant has violated crimes code sections 2701 (related to simple assault), 2702(a)(3), (4) and (5) (related to aggravated assault, or 2705 (related to recklessly endangering another person) against his spouse or other person with whom he resides or has formerly resided although the offense did not take place in the presence of the police officer if the officer first observed recent physical injury to the victim or other corroborative evidence of the offense(s).
    - b. Title 18, Crimes Code of Pennsylvania, Chapter 39, Theft, Subchapter A, Section 3904
      - (1) Officers shall have the same right of arrest without a warrant for any grade of theft as exists or may hereafter exist in the case of the commission of a felony.
    - c. Title 75, Vehicle Code of Pennsylvania, Chapter 63, Enforcement, Sub-chapter A, Section 6304, Authority to Arrest Without a Warrant.
      - (1) Officers may arrest any non-resident who violates any provision of this title in the presence of the officer making the arrest.

(2) 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.

d. Title 42, Pa. C.S. Section 8902 authorizes arrests without a warrant under Title 18, Crimes Code of Pennsylvania, when a police officer has probable cause from viewing ongoing conduct which imperils the personal security of any person or endangers public or private property when such conduct constitutes certain summary offense(s).

(1) General Rule - Warrant less arrests, upon probable cause, shall only be authorized for the following summary offenses of Title 18 when there is ongoing conduct that imperils the personal security of any person or endangers public or private property.

(a) Disorderly conduct (18 Pa. C.S. Section 5503).

(b) Public drunkenness (18 Pa. C.S. Section 5505).

(c) Obstructing highway (18 Pa. C.S. Section 5507).

(d) Underage purchase/possession of liquor (18 Pa. C.S. Section 6308).

#### D. Documenting Arrests

1. An arrest entry is to be completed in the Police CAD/RMS system for every arrest, including physical arrests on traffic offenses. The entry should be filled out as completely as possible and contain all details which led to the arrest, encompassed the arrest, and the processing of the suspect.

#### E. Mandatory fingerprinting

1. Fingerprints of all persons shall be taken when they are arrested for a felony, misdemeanor, or summary offense which becomes a misdemeanor on a second arrest upon conviction of that summary offense.

2. Within 48 hours of the arrest, completed fingerprint cards shall be forwarded to the central repository in the prescribed manner and form.

3. Where private complaints for a felony or misdemeanor result in a conviction, the court of proper jurisdiction shall order the defendant to submit for fingerprinting by the municipal police of the jurisdiction in which the offense was allegedly committed or in the absence of a police department, the State Police.

4. Fingerprints so obtained (as in #3 above) by the Police Department shall, within 48 hours, be forwarded to the central repository in a manner and in such form as may be provided by the central repository.
5. Where defendants named in police complaints are proceeded against by summons, or for offenses under section 3929 (relating to retail theft), the court of proper jurisdiction shall order the defendant to submit within 5 days of such order for fingerprinting by the municipal police of the jurisdiction in which the offense allegedly was committed or, in the absence of a police department, the State Police. Fingerprints so obtained by the Police Department shall, within 48 hours, be forwarded to the central repository in a manner and in such form as may be provided by the central repository.
6. The central repository is required to transmit the criminal history record information to the criminal justice agency which submitted a complete, accurate and classifiable fingerprint card. The criminal history obtained from the central repository will be filed in the case folder relating to the incident.
7. Procedures for the collection, dissemination and retention of fingerprints pertaining to juveniles shall be in accordance with the procedures located in the Pennsylvania Judiciary and Judicial Procedure ' 6308 (c) (1), (2) and (3) and General Order: 82.1.2.

F. Photographing

1. Photographs are taken of all adults arrested with the exception of:
  - a. Summary offense vehicle code arrests,
  - b. Most summary offense crimes code arrests.
2. Procedures for the collection, dissemination and retention of photographs pertaining to juveniles shall be in accordance with the procedures located in the Pennsylvania Judiciary and Judicial Procedure ' 6308 (c) (1), (2) and (3) and General Order: 82.1.2.