



## **2100 ARREST POLICIES** (Revised June 21, 2019)

### **2110 ARRESTS**

#### **2111 Definitions**

As used in this Chapter, the following definitions are applicable:

- **Arrest:** The term "arrest" does not have one precise definition; rather the definition may depend upon the circumstances. Pursuant to Arizona Revised Statutes, an arrest "is made by an actual restraint of the person to be arrested, or by his submission to the custody of the person making the arrest." Courts have defined the term arrest to mean a seizure of a person when, under the totality of the circumstances, a reasonable person would not feel free to leave. A "full custodial arrest" constitutes a situation where an individual under arrest is taken into custody and transported either to jail or a police facility.
- **Probable Cause:** The required level of knowledge to make a lawful arrest. This has been defined by courts as "reasonably trustworthy knowledge, based on articulable facts and circumstances, that would lead a reasonable person to believe that a crime has been, is being, or is about to be committed, and that the person to be arrested has committed, is committing, or is about to commit that crime." Probable cause is determined by the totality of the circumstances and may be established by the collective knowledge of all law enforcement personnel involved.

#### **2112 General**

When making the determination to take enforcement action, officers shall consider what's required by law, what's in the best interests of the department, and what's in the best interests of the community. Officers shall not exercise discretion based upon a person's race, ethnicity, gender, religion, sexual orientation, or any other social, cultural or economic factor, including a person's purported standing in the community.

Following the procedures delineated in General Orders, an officer may at any time, with or without a warrant, arrest a person if the officer has probable cause to believe:

- A felony, misdemeanor, or a petty offense has been committed and probable cause exists to believe the person to be arrested has committed the offense.

##### **2112.1 Use of Force While Making an Arrest/Treatment of Prisoners**

All suspects and prisoners shall be treated courteously, humanely and with regard for their legal rights.

Officers shall use only the minimum force necessary to affect an arrest or restraint, and to ensure the safety of the arrestee, the officers and others. Intentional, unjustified assaults



committed by department members shall constitute gross misconduct, and may result in criminal prosecution and administrative action, up to and including termination.

Only restraining devices and techniques authorized by the training center will be utilized in the restraint, transportation, and detention of arrestees.

#### **2112.2 Injury to Prisoners or Damage to Property**

***Department members are responsible for the welfare, safety, and security of the person they arrest until the arrestee is transferred to another officer, detained at the jail or prison, or released.***

If an arrestee is injured, ill, or has another medical condition requiring immediate care, the arresting/transporting officer shall ensure that the arrestee receives appropriate medical attention. The circumstances surrounding the need for and provision of this medical care shall be fully documented in a written report and field photographs taken if applicable.

Arrestees who are injured, ill, or who have other medical conditions requiring immediate care should be evaluated and transported by EMS personnel to a medical facility unless EMS personnel clear these arrestees for transport in a patrol vehicle.

A supervisor shall be notified of an ill or injured prisoner as soon as is practicable. An ***Injured Person Report*** shall be completed as necessary (see General Order 2164.2).

Arrestees who must be transported to a hospital shall be guarded en route and at any hospital venue, until they are cited and released or booked into jail. In instances where a hospitalized prisoner must be guarded for an extended time, a Headquarters Security Officer can assist field supervisors with setting up a guard duty rotation. See *General Order 2170* reference Prisoner Guard Duty.

Hospitalized prisoners shall remain handcuffed or otherwise restrained based upon their physical condition for the safety of everyone involved and to prevent escape.

Whenever injury to an arrestee or damage to property occurs as the result of any police action, the incident shall be fully documented in a *Multi-Purpose Report*, and a copy of the report shall be forwarded to the Legal Advisor.

#### **2112.3 Transporting Prisoners**

The Prisoner Transport Unit will be utilized to transport arrestees whenever possible. Unless the circumstances dictate otherwise, the prisoner will be transported in a screened unit, handcuffed, and restrained by use of the seat belt or other restraining device in a manner that will prevent injury to the prisoner and the officer. Transporting officers shall search prisoners prior to placing them in the vehicle. Hand-carried prisoner property, such as purses, briefcases, knapsacks, etc., shall likewise be searched for weapons if it is to be transported in the police vehicle. These items shall not be transported in the prisoner compartment of the police vehicle. Transporting officers shall



search the area of the vehicle occupied by the prisoner both before and after transportation.

Officers are reminded of the safety issues involved in the transportation of prisoners and shall keep all weapons guarded. Officers transporting prisoners will seat the prisoner or situate themselves in order to monitor the activities of the prisoner. Members must follow security protocols and may be required to secure their firearms and auxiliary weapons before entering a mental health facility, even if they are escorting a prisoner into such a facility.

Officers encountering on-site criminal or traffic situations shall notify communications of the situation. Of primary concern is the security and safety of the prisoner. Officers will monitor the on-site situation as necessary and shall only stop and render assistance when the risk to third parties is clear and grave and the risk to the prisoner is minimal.

Upon arrival at the booking location, officers shall follow security protocols established by the facility to include:

- Securing of firearms and other weapons;
- Keeping the prisoner restrained until prisoner is in a completely secure location;
- Sally port and booking area procedures;
- Completion of the *Arrest Information Sheet* (Including arrestee fingerprints for identification and documentation of any special circumstances. This documentation shall remain with the prisoner if transported between facilities.)
- Notification of detention personnel of special circumstances (medical conditions, suicidal, security hazards, escape risk etc.).

If a prisoner escapes during transport or while otherwise in custody, incident command protocols and appropriate tactics shall be implemented to re-capture the individual and a supervisor shall be notified. The incident shall be documented in a *Multi-Purpose Report* and the prisoner shall be appropriately charged.

#### **2112.4 Recommending Attorneys and Bail Bondsman Prohibited**

During the course of police business, members shall not suggest or provide advice regarding retention of a particular attorney or bail bondsman.

#### **2112.5 *De Facto Arrest***

Officers are prohibited from detaining persons for unreasonable periods of time or transporting persons, without probable cause or consent, to a police facility or other site for purposes of interrogation. Arizona courts have held that detentions and transportation without probable cause are unlawful under the Fourth Amendment. The length or detention or any transportation of a detainee must be reasonable in light of the circumstances. A brief transport for an in-person identification, when the detention is in close proximity to the time and location of the crime, is acceptable if supported by reasonable suspicion.



#### **2112.6 Necessity for Warrant**

An officer may make an arrest with or without a warrant under the following circumstances:

- Anytime, in a public place;
- At the subject's private residence
- If the officer has been invited inside, or
- If the subject has come outside of the residence; or
- If the officer is invited into a third party's residence or is inside pursuant to a legitimate purpose.

In all other circumstances, an officer is required to have an arrest warrant in order to enter an individual's home to make an arrest. If an officer is making an arrest pursuant to an arrest warrant in the home of a third party, the officer must also have a search warrant or the consent of the third party to enter that home.

Forced entry into a residence to make an arrest with a warrant shall be limited to felony offenses or misdemeanors involving violence or a continuing threat to persons if an arrest is not made.

#### **2112.7 Domestic Violence Arrests**

If, during the course of an investigation, an officer finds that there is probable cause to arrest a suspect for domestic violence as defined in ARS 13-3601, the suspect shall be physically arrested, regardless of the victim's desire to prosecute. Acts committed in self-defense shall not be considered domestic violence. Although mutual arrests in a domestic violence situation may sometimes be appropriate, officers shall consult with a supervisor before making such arrests.

If an officer believes there should be an exception to an immediate arrest of an individual for domestic violence, the officer shall review the incident with a supervisor and obtain the supervisor's authorization before deviating from the immediate arrest provision of this procedure. Additionally, this information shall be fully documented in the appropriate police report(s).

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## 2113 Arrest Procedures

### 2113.1 General Arrest Procedures

Officers shall identify themselves as peace officers before taking police action. Officers affecting an arrest shall inform the person being arrested of the cause of the arrest. If the arrest is pursuant to an arrest warrant, officers shall inform the arrestee of the existence of the warrant.

Officers do not have to provide the above listed information to an arrestee if any of the following circumstances are present:

- Providing this information would imperil the arrest;
- The arrestee is presently engaged in commission of the offense;
- The officer is in pursuit of the arrestee immediately after commission of the offense, or after an escape from the officer's custody; or
- The arrestee flees or forcibly resists the officer before the officer has a chance to provide the information.

### 2113.2 Arraignment Procedures

Arraignments are held twice daily (0900 hours and 2000 hours) at the Pima County Sheriff's Minimum Security facility located at 1801 S. Mission Rd.

In order for an arrestee to be seen for morning arraignments, they must be booked into Pima County Jail by 0600 hours. In order for arrestees to be seen for evening arraignments, they must be booked into Pima County Jail by 1800 hours.

TPD court liaison officers will process the morning arraignments and PCSO court liaison officers will process the evening arraignments.

- **Felony Paperwork**

- The *Felony Interim* and *Arrest Information Sheet* shall be placed in the plastic box located in the officer's area of the jail intake. The probable cause statement on the *Felony Interim* shall justify each felony offense charged.

- **Misdemeanor Paperwork**

- The citation and *Release Questionnaire (Form 4)* shall be placed in the lock box located outside the jail intake doors (same area where prisoner property is stored).

- **E-Citation Program**

- The booking officer shall print one copy of the e-citation for the arrestee. A separate copy, which includes the probable cause

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statement, shall be printed and placed in the above mentioned lock box with the required *Release Questionnaire (Form 4)*.

- **Case Reports/Supplements**

- Case Reports/Supplements related to the above arrests are to be turned in by the end of the officer's shift.

## 2114 **Misdemeanors**

### 2114.1 **Field Release**

A misdemeanor will be cited and field released, except:

- When a physical arrest is mandated by statute or Department procedures;
- When the misdemeanor is under the age of 18 and comes under the jurisdiction of the Pima County Juvenile Court (excluding routine traffic violations or alcohol offenses);
- When the release could jeopardize the safety and welfare of the suspect or any other person or when the suspect has already been cited and refuses to leave, or continues to commit the violation; or
- When an identification or physical arrest would be more appropriate.

### 2114.2 **Identification Arrest and Release**

Officers shall conduct procedures to accurately identify an arrestee prior to citing and releasing the arrestee when the officer is unsure of the identity of the arrestee. Officers may conduct identification procedures if such information would assist in a criminal investigation. These procedures may include fingerprinting and photographing the arrestee.

### 2114.3 **Physical Arrest**

Officers will consider making a physical arrest of a misdemeanor in the following situations:

- The suspect cannot be satisfactorily identified;
- The suspect refuses to sign a promise to appear or by overt action or statement gives the officer probable cause to believe that the person will not appear in court;
- The suspect committed the misdemeanor in the officer's presence and a field release would be inappropriate;
- There is information indicating that similar offenses are pending on the subject; or
- A supervisor directs the physical arrest of the suspect.

Officers making a full custodial arrest of an individual shall search that individual incident to arrest. Officers shall not transport an arrestee for the sole purpose of creating a situation where search incident to arrest is appropriate.



**2115 Long Form In Lieu of Arrest** (Revised June 24, 2019)

An incident is considered "Long Formed" when an immediate arrest is not made, though the suspect is known. This typically involves incidents that are non-violent in nature and there is no reason to believe the suspect will flee or otherwise leave the jurisdiction, or if probable cause cannot be established during the preliminary investigation. As follow-up is not feasible on all misdemeanor cases, officers should strongly consider making the arrest (either physical arrest or citation only as appropriate) and avoid the long form process when presented with sufficient probable cause, absent a recommendation from the appropriate Detective Supervisor or City/County Prosecutor to the contrary.

**2116 Combined Felony and Misdemeanor Charges** (Revised Jan 3, 2018)

In instances when the misdemeanor is "lesser included," (e.g. felony fleeing and misdemeanor reckless driving), the misdemeanor offense(s) shall be fully documented in a *Multi-Purpose Report* and not charged. A *Felony Interim* is required for all initial arrests for a felony offense and for confirmed out of state agency felony warrants.

Officers, upon discovering that a subject in the County Jail charged for a misdemeanor violation is wanted for a felony violation, shall immediately prepare a *Multi-Purpose Report* or *Supplementary Report* covering the facts and elements of the felony, and re-book the subject under the case number assigned to the felony offense.

**2117 Arrest Warrants**

An arrest warrant is a written order issued and signed by a neutral Magistrate directed to all peace officers, commanding them to arrest the person named in the warrant and to bring that person before the court to answer criminal charges. Only sworn members shall execute arrest warrants.

A warrant is only issued upon a sworn complaint by either a peace officer or an offended party (the victim or a prosecutor representing the victim) before a Magistrate establishing that there is probable cause for arrest. The probable cause must establish that a crime has occurred, that the crime occurred within the jurisdiction of the court issuing the warrant, and that the named defendant committed the crime.

Warrants must contain specific information sufficient to identify the arrestee in order for officers to rely in good faith upon the warrant. A warrant that is not sufficiently specific is facially invalid and officers may not rely on the warrant to make an arrest.

Warrants must have a complete physical description, including ethnic origin, sex, height, weight, hair color, eye color and date of birth (age alone is insufficient) before the warrant may be entered into the computer. Additional descriptors (social security number, etc.) are acceptable, but the above listed information is required.

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#### **2117.1 When an Arrest Warrant is Required**

Unless an exception exists, a warrant is required to make entry into a residence or other private building to affect an arrest. Officers may enter the residence of the person who is the subject of a felony arrest warrant to affect an arrest at any time of day or night, on any day of the week, when there is probable cause to believe the subject is currently at that location. Officers seeking to enter the residence of a third party to arrest a person who is the subject of a warrant must have either the consent of the third party to enter, or a separate search warrant authorizing entry into the third party's residence.

#### **2117.2 Warrant Confirmation**

All warrants and stolen vehicle information shall be confirmed with the originating agency prior to arrest. Occasionally, warrants are quashed or have been previously served but remain in the computer as active warrants. Officers who make arrests on such warrants without confirming the present validity of the warrant risk making an unlawful arrest. This can result in liability for the officer and the department.

Confirmation may be made by contact with the Records Section by telephone, computer, or through Communications. Officers who reasonably believe that a warrant exists may lawfully detain a subject for a reasonable amount of time pending confirmation. Under normal circumstances, officers attempting to serve warrants will make contact with the subject prior to initiating confirmation proceedings.

Confirmation of the warrant's validity shall be made prior to affecting the physical arrest of the subject named on the warrant. This does not preclude an officer from taking appropriate officer safety measures and detaining a suspect while awaiting confirmation of the warrant.

Officers shall refrain from serving a warrant if there is conflicting information or uncertainty as to the warrant's validity. In such circumstances, the TWX operator in the Records Section should be notified and will attempt to contact the court or the appropriate jurisdiction to confirm the warrant information.

When any warrant that has been confirmed is not going to be served, the officer making the decision not to serve the warrant is responsible for advising the Records Section that the warrant will not be served. This shall be done prior to the end of the officer's tour of duty. The Records clerk who receives this notification shall re-file the warrant for future service.

#### **2117.3 Warrant Service**

Officers need not possess the actual warrant when making an arrest pursuant to a warrant. Officers shall inform the arrestee of the existence of the warrant, and if the arrestee so requests, officers shall inform them of the contents of the warrant, either by reading it to them or showing the arrestee a copy as soon as is practicable.





Persons arrested pursuant to a warrant shall be taken before a Magistrate in the county where the arrest was made within 24 hours as outlined in the procedure for arraignments.

#### **2117.4 Other Agencies Serving TPD Warrants**

Other agencies seeking to serve outstanding TPD warrants shall be advised that the agency will only extradite for criminal and serious traffic offenses. A Commander may make exceptions to this policy.

#### **2117.5 Application for an Arrest Warrant**

Officers must swear out a complaint to the Court alleging the criminal offense and naming the suspect as the offender. This may be accomplished by presenting all available information and facts to an appropriate prosecuting attorney who will prepare the complaint.

The warrant is prepared in the appropriate prosecutor's office, sworn to by the officer, and then signed by a Court Magistrate, a Justice of the Peace or a Superior Court Judge.

#### **2117.6 Apprehension of Individuals Wanted by Outside Agencies for Felony Offenses**

Persons shall not be apprehended for outside agency warrants except under the following conditions:

- The department shall have written or telephonic authority which specifically states:
  - Name of fugitive;
  - Date of birth or age, and physical description;
  - Information on the offense alleged (charge);
  - Confirmation that the charge is a felony;
  - Warrant number;
  - Confirmation that the issuing authority will extradite; and
  - Name of the person who signed the warrant.
- Prior to arresting the subject of the warrant, the arresting officer shall obtain confirmation that the warrant is outstanding through the Records TWX operator. A computer hit from ACIC or NCIC is not sufficient for an arrest.
- If the arrestee has committed a felony prosecutable in Pima County, the arrestee shall be arrested for that offense in addition to the warrant charge(s).
- If a request to assist an outside agency in apprehending a fugitive is received by the agency, the supervisor or detective of the appropriate unit shall be notified, and shall assume the investigation if practical.

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A *Felony Interim* and *Multi-Purpose Report* are required for all confirmed out of state agency felony warrants that are served.

#### **2117.7 Federal Charges**

If a subject is taken into custody solely for outstanding federal charges, he or she will be transported directly to the Federal Correctional Institute (FCI) at 8901 South Wilmot Road between 0600-2400 hours. After-hours detention will require arrangements be made for temporary detention until 0600 hours. FCI requires no paperwork other than a copy of the TWX notification and confirmation. They do request that, when possible, officers telephone in advance so that they are able to make preparations.

The officer is required to complete a *Multi-Purpose Report*, classified "Assist Other Agency/Federal Criminal Justice (60.04)" with the subject indicated as the "suspect" only. No arrest information or interim sheet is required.

If the subject is in custody for other charges in addition to the federal charges, book the subject at the Pima County Jail for the additional charges. Do not include the federal charge on the *Arrest Information Sheet*. Jail personnel will place a hold on the subject and release the subject to the U.S. Marshal's custody once the local charges have been satisfied. Responsibility for notifying the U.S. Marshal's Office rests with the jail personnel.

When local charges accompany federal charges, the "Other Agency Assist" *Multi-Purpose Report* shall still be completed, along with necessary paperwork for the local charges.

#### **2117.8 Traffic and Misdemeanor Arrest Warrants/Alternative to Jail Program**

Officers will make a physical arrest of a misdemeanor warrant subject once the warrant has been confirmed. When possible, the Prisoner Transport Unit will be utilized to aid in the transportation of arrestees. Subjects arrested solely for Tucson City Court warrants (except DUI, DV, and Leaving the Scene warrants), should be transported to City Court under the Alternative to Booking program. The program is in operation business days between 0800/1115 and 1330/1600 hours and entails the arrestee being taken immediately before a magistrate in court room 103.

Officers may elect not to make an arrest when operational need or situational circumstances weigh against making a physical arrest (e.g., the call load dictates that the officer should not leave the field, or the arrest of the offender for a minor offense requires placement of accompanying children).

Officers who stop a suspect, but elect not to serve a warrant, shall release the suspect and advise they contact the appropriate judicial jurisdiction to resolve the issue.

#### **2117.9 Service Location of Misdemeanor Warrants**



Generally, misdemeanor warrants are to be served, once confirmed, only when the person is located in a public place or when a person with authority to do so has consented to the officer's entry into the person's home. Officers shall not, except in exceptional circumstances approved by a supervisor, force entry into a person's home to serve a misdemeanor warrant. Supervisors may authorize forcible entry to serve a misdemeanor warrant only in serious cases in which there is reason to believe that harm may result to persons if the warrant is not served (e.g., domestic violence offenders).

Deviations from these procedures may be appropriate when necessary under exigent circumstances or to address unique problems (e.g., a backlog of a particular type of warrant). Any deviation from this procedure must be authorized by a Commander.

#### **2117.10 Civil Arrest Warrants**

The Arizona Rules of Civil Procedure (Rule 64.1) allow the courts to issue a civil arrest warrant. Such warrants shall only be served by a commissioned officer. There is no statutory violation required by the rule, nor is there a charge associated with the warrant or subsequent arrest. The warrant is not for a felony, misdemeanor or petty offense. If the subject is arrested for both criminal and civil violations, the criminal procedures shall take precedence. The following procedures shall apply when processing a civil arrest warrant.

All Civil Arrest Warrants shall be confirmed with the originating agency prior to service. Special attention will be given to any time restrictions affecting when the warrant may be served. Unless there has been a showing of good cause to the issuing Magistrate, a civil arrest warrant shall not be executed between the hours of 2200-0630.

If contact with the subject occurs at a time of day or on a day of the week that the court has ordered that the warrant not be served, the officer shall advise the subject of the existence of the warrant but shall not serve the warrant. In these incidents, no documentation is required. If the contact with the subject occurs during a time authorized by the court for service of the warrant and the warrant is confirmed, the arresting officer shall place the subject under arrest.

The location the prisoner will be transported to will be determined by the arrival time at the receiving facility:

Arrival between 0730 and 1600 hours, weekends and holidays excluded, the prisoner will be transported to the holding area, Judicial Security Unit of the Pima County Sheriffs Department (PCSD), located on the 7th floor of the Superior Court Building at 110 West Congress. While en route to the Judicial Security Unit, the transporting officer will request that TPD Communications advise the unit that they are en route with a "10-15 civil" and provide the estimated time of arrival. Upon arrival of the officer, Judicial Security will take custody of the prisoner.

All other times, the prisoner will be transported to the Pima County Adult Detention Facility where they will be booked.

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The officer is required to complete a *Multi-Purpose Report*, classified "Assist Other Agency/County Criminal Justice (60.02)" with the subject indicated as the "suspect" only. No arrest information or interim sheet is required. All reports relative to the arrest will refer to the charge as "Civil Rule 64.1".

## 2118 **Arrest of Military Personnel**

### 2118.1 **General**

If an active-duty member of any of the armed forces of the United States is arrested for a crime other than minor civil infractions or minor traffic offenses, officers will telephone Davis-Monthan Air Force Base law enforcement personnel, and advise them that an active-duty military member has been arrested.

For criminal arrests of military personnel officers must provide the following information:

- Name, rank, date of birth, and serial number of the arrested person;
- The offense(s) with which the person is charged; and
- The TPD case number.

Officers will also advise the military law enforcement personnel that a copy of the report will be available from the Records Section. Officers will not disclose the criminal history of the arrested military member.

National Guard members have immunity from arrest for any offense except those involving treason or felonies while on drill and when traveling to and from drill service. Civil traffic offenses shall be handled as with any other person. Officers are reminded of Title 28 provisions regarding driver license requirements for military personnel. This allows them to forgo the renewal of their driver license from their home state if they are on active duty and have current military ID.

### 2118.2 **Apprehension of Deserters**

Title 10, *United States Code* provides, "Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, Territory, Commonwealth, or Possession, or the District of Columbia, may summarily apprehend a deserter from the armed forces and deliver him into custody of those forces."

When an officer comes into contact with an individual who is listed in NCIC as a deserter, the officer shall request Communications to confirm the warrant with Davis-Monthan Security Police. If the warrant is confirmed, Davis-Monthan personnel will respond to pick up the subject. If Davis-Monthan personnel are unable to respond, the officer will take the subject to the Davis-Monthan law enforcement desk.

If the individual is also under arrest for a violation of a state law or city ordinance, the jail shall be advised to put a military hold on the arrestee.

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If the warrant cannot be confirmed, the officer shall release the subject after obtaining identification information. A *Multi-Purpose Report* shall be completed by the officer and routed to the Davis-Monthan authorities by the Records Section.

## 2119 **Undocumented Persons or Foreign Nationals**

### 2119.1 **U-Visa**

The United States Congress created the U-Visa as part of the Victims of Trafficking and Violence Protection Act of 2000. Congress recognized that there were individuals with temporary or no legal status in this country who feared that assisting law enforcement could lead to their deportation. By providing non-citizen victims a means of stabilizing their legal status, the U-Visa encourages them to report crimes and cooperate with prosecutors. It is designed to help curtail criminal activity, protect the innocent, and encourage non-resident immigrant victims to fully participate in proceedings that will aid in bringing criminals to justice.

- **U-Visa Avenue to Legal Status for Non-Citizens**

- The U-Visa provides an avenue to legal status for immigrant crime victims who:
  - Have suffered substantial physical or mental abuse as a result of victimization,
  - Possess information regarding the activity,
  - Offers a source of help in the investigation or prosecution, **and**
  - The incident should be an active case, although exceptions can be made.

- **U-Visa Process**

- If an officer believes the victim or witness is an appropriate candidate, the information may be provided to the CAPD Captain. The victim or witness may also be referred to the appropriate prosecuting agency for assistance.

- **Department U-Visa Certifying Official**

- The Investigative Services Bureau Chief has been designated as the Department's Certifying Official. It is the responsibility of the Certifying Official, or designee, to conduct follow-up on all requests received for certification of the *U-Nonimmigrant Status Certification Federal Form (I-918, Supplement B)*.
- If it is determined that Qualifying Criteria have been met, the Certifying Official may issue a certification. The final authority for the Department on any application rests with the Chief of Police.

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- Department certification is only one step in the U. S Citizenship and Immigration Services process in granting a U-Visa. See Share Drive/CAPD & PCD (CID)/U-Visa Procedures Manual for further details.

### **2119.2 Consular Notification Upon Arrest of Foreign Nationals**

The United States is obligated under international treaties to notify foreign Consular Officials when foreign nationals of their country are arrested or otherwise detained for an extended period in the United States. These obligations include:

- Immediately informing the foreign national of the right to have their government notified concerning the arrest/detention.
- Informing the appropriate Consulate without delay if the foreign national asks that such notification be made.
- In the case of certain countries, making such notification without delay, regardless of whether the arrestee/detainee wishes to have the notification made.

Arizona law also mandates this process in accordance with these obligations (ARS 13-3906).

Due to variations in treaties, consular notification is voluntary in some situations (the arrestee's choice), and mandatory in others (notification must be made whether the arrestee requests it or not). Each time a foreign national from a country is arrested or detained for an extended period of time, the officer with custody of the subject shall contact Communications to determine whether notification is voluntary or mandatory. Communications maintains a list of countries that require mandatory notification as well as fax numbers for Embassies and Consulates across the United States.

- A *Consular Notification Form and Fax Sheet* (TPD#3208) shall be completed each time a foreign national is arrested or detained for an extended period of time.
- The officer with custody of the subject must ensure that the appropriate box is checked regarding the voluntary or mandatory notification status of the country and if Voluntary notification is declined.

### **2119.3 Voluntary Notification**

Mexico is a voluntary notification country. If a Mexican national is taken into custody or any other national from a country where consular notification is voluntary, the officer with custody of the subject must read statement number one (1) on the back of the *Consular Notification Form and Fax Sheet* to the arrestee. The officer will then document that the statement was read as well as the arrestee's indication of understanding and whether the arrestee wished for Consular Officials to be notified in the *Multi-Purpose Report*.



- If the arrestee indicates that they wish for their Consulate to be notified, the officer shall fax the completed *Consular Notification Form and Fax Sheet* and fax it to the local Mexican Consulate, or the appropriate consular or embassy office, should the arrestee be from another voluntary notification country.
- Submit the original copy of the *Consular Notification Form and Fax Sheet* and the fax receipt to Records.

#### **2119.4 Mandatory Notification**

If the arrestee is from a country that requires mandatory notification of Consular Officials, then the officer with custody of the subject must read statement number two (2) on the back of *Consular Notification Form and Fax Sheet* to the arrestee. The officer will then document that the statement was read as well as the arrestee's indication of understanding in the *Multi-Purpose Report*.

- The officer shall fax the completed *Consular Notification Form and Fax Notification Sheet* to the appropriate Consulate or Embassy office.
- Submit the original copy of the *Consular Notification Form and Fax Sheet* and the fax receipt to Records.

#### **2119.5 Notification Response**

Once notification of the appropriate Consulate or Embassy has been made it is not necessary to wait for a reply before continuing with the investigation. If the Consulate does contact the officer and asks to speak with the suspect, the Consulate is entitled to reasonable, private access. That access does not take priority over the investigation. The Consulate may not act as an attorney and may not invoke any of the suspect's rights on the suspect's behalf.

#### **2119.6 Immunity from Arrest**

While the legislature is in session, both the U.S. and Arizona Constitutions provide federal and state legislators with immunity from arrest for any offense except those involving treason, felonies, or misdemeanors involving a breach of the peace. (A breach of the peace includes Disorderly Conduct, Assault, Domestic Violence, etc., but not DUI.). This immunity from arrest exists during the term of the legislative session and extends for 15 days before and after the session.

Foreign diplomats, their families and staff enjoy complete immunity from arrest, and their property or residences may not be searched, even with a warrant. These persons may also not be compelled to testify or provide evidence in court proceedings.

Persons protected by diplomatic immunity will have an identification card provided by the U.S. Department of State that contains a photograph of the person, the person's name, title, mission, city and state, date of birth, identification number, expiration date and State Department Seal. Officers shall seek verification of the identification if there is reason to

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doubt the validity of the card. Officers may contact the FBI to confirm status; the FBI will work directly with the U.S. Department of State.

Persons protected by diplomatic immunity may be detained if they have committed a seriously violent crime and there is reason to believe they present a continuing danger. The FBI will immediately be contacted to take custody of the person.

## **2120 JUVENILE ARRESTS**

### **2121 General**

The Tucson Police Department is committed to juvenile programs designed to prevent and control delinquency, and all members and units will direct their conduct toward these ends when in contact with juvenile offenders. When a juvenile is involved in a police-related incident, either as a victim or as a suspect/offender, procedures must be followed which differ from those followed for adults. Federal and state laws dictate courses of action. In certain cases, Pima County Juvenile Court Center (PCJCC) procedures require a certain action by a Department member. This chapter addresses the general procedures for the handling of juveniles.

### **2122 Juvenile Justice and Delinquency Prevention Act (JJDP Act)**

The Juvenile Justice and Delinquency Prevention Act (JJDP Act) is a federal law that pertains to the detention of juveniles dependant upon whether the juvenile is charged with a criminal offense or a status offense. The main tenets of the law require:

- Sight and sound separation of juvenile arrestees from adult arrestees.
- A juvenile detained solely for a status offense may not be securely detained. For the purposes of the JJDP Act, a status offense includes Minor in Possession/Consumption of Alcohol charges. The juvenile may still be charged with the criminal offense, as the JJDP Act only relates to how they are detained for such an offense. (If necessary for safety, such juveniles may be handcuffed, but not to a stationary object.)
- A juvenile who has committed a delinquent offense and is therefore subject to secure detention, cannot be held in secure detention longer than six (6) hours. If further time is needed, a juvenile may be moved from secure to non-secure detention if appropriate. (All detentions longer than two (2) hours require supervisor approval.)

### **2123 Definitions**

As used in this section, the following definitions apply:

- **Chronic Felony Offender:** A juvenile who has had two prior and separate adjudications and dispositions for conduct that would constitute a historical prior felony conviction if the juvenile had been tried as an adult.





- **Delinquent:** A child eight (8) years of age or older and under 18, is delinquent if adjudicated to have committed a delinquent act that would be a criminal offense if it were committed by an adult, including the violation of any law of this state or of another state.
- **Dependent Child:** A child under eight (8) years of age is a dependent child if found to have committed an act that would result in adjudication as a delinquent or incorrigible child if committed by an older child.
- **Incorrigible:** A child eight (8) years of age or older and under 18, is incorrigible if adjudicated as one who refuses to obey the reasonable orders of parents, guardians, or custodian; and who is beyond the control of such person, or who is habitually truant from school, or is a runaway from the child's home or parent, guardian, or custodian; habitually behaves in a manner likely to injure or endanger the morals or health of the child or others; commits an act that is not a delinquent act, but can be if committed by a minor; or fails to obey a lawful court order given in a non-criminal action.
- **Juvenile:** Any person under the age of eighteen (18) years of age.
- **Neglected or Abused Children**
  - A child who is abandoned by parents, guardian, or custodian,
  - A child who lacks proper parental control as a result of the fault or habits of the parent, guardian, or custodian.
  - A child whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, medical or surgical care, or other necessities for the child's health, morals, or well-being.
  - A child whose parent, guardian, or custodian neglects or refuses to provide special care necessitated by the child's mental condition.
  - A child who is found in a disreputable place or who associates with vicious or immoral persons.
  - A child who is subjected to cruel and inhuman treatment and shows the effect of being physically mistreated. The definition of abuse includes not only inflicting injury, but also allowing injury.
- **Non-offender:** A juvenile who is subject to the jurisdiction of the Juvenile Court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.
- **Physical Injury:** Means the impairment of physical condition and includes but is not limited to any skin bruising, bleeding, failure to thrive, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ, or any physical condition which imperils a child's health or welfare.
- **Responsible Party:** A juvenile may be turned over to the care and custody of their parents, step-parents, responsible maternal or paternal relatives (e.g. grandparent, aunt, uncle), a reputable citizen of good moral character (e.g., neighbor or family friend), or private agency or institution charged with assuming such responsibility (e.g. Center for Juvenile Alternatives (CJA) for status offenses or DV Alternative Center (DVAC) for non-violent DV



offenses). If further options are necessary, CPS may be willing to refer a juvenile to Our Family Services Reunion House Shelter or another similar location. When using other than the juvenile's actual parents or stepparents, officers shall seek authorization from a supervisor and document the action in their reports.

Prior to releasing a juvenile to anyone, the officer shall coordinate the release with CPS to ensure the continued safety of the child and allow CPS to continue with their investigation.

- **Secure vs. Non-Secure Detention:** Secure detention is that which restricts freedom of movement, i.e., handcuffed to a handcuff ring/bench or held in a secure detention cell. Utilizing a room for non-secure detention that has a key lock, or any lock that cannot be readily unlocked from the interior by any occupant, constitutes secure detention, even if the door is kept open. Handcuffs alone do not constitute secure detention unless attached to a handcuff ring/bench.
- **Sexual Abuse:** (notwithstanding the definitions in Arizona Revised Statutes Title 13, Chapter 14) means vaginal, anal or oral intercourse; vaginal or anal penetrations; or other serious forms of inappropriate sexual contact. Also includes sexual exploitation - use of a child in prostitution, pornography, or other sexually exploitative activities.
- **Status Offense:** An act committed by a juvenile which is an offense only because it is committed by a juvenile, an adult committing the same act would not be charged with an offense (e.g., curfew violation, runaway, etc.). Pursuant to federal law, a juvenile detained solely for a status offense, may not be securely detained. The JJDP Act includes Minor in Possession/Consumption of Alcohol as status offenses. The juvenile may still be charged with the criminal offense, as the JJDP Act only relates to how the juvenile is detained and not to charging.

#### **2124 Arrests of Juveniles**

A peace officer shall take a child into temporary custody pursuant to the laws of arrest, with or without a warrant, when there is probable cause to believe that the child has committed a delinquent act which if committed by an adult could be a felony, misdemeanor, status offense, or petty offense, and the child has been apprehended in commission of the act or in fresh pursuit, or when probable cause is developed during follow-up investigation.

The decision whether to arrest a juvenile will, in most cases, follow the policy for the arrest of adults. However, officers must also consider the gravity of the offense, the age of the offender, etc., in the disposition chosen for apprehended juveniles.

Alternatives that should be considered prior to releasing a juvenile on a Paper Referral to a parent or guardian or taking a juvenile to PCJCC is the Center for Juvenile Alternatives (CJA) for status offenses and the Domestic Violence Alternative Center (DVAC) for Domestic Violence offenses. See *General Order 2125.3 and 2125.4* for further information.

A juvenile who has committed a delinquent offense and is therefore subject to secure detention, cannot be held in secure detention longer than six (6) hours. If further time is needed, a juvenile

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may be moved from secure to non-secure detention if appropriate. (All detentions longer than two (2) hours require supervisor approval.)

#### **2124.1 Rights of Juvenile Offenders**

A juvenile has the same Constitutional rights as an adult. When juveniles are taken into custody based on probable cause for believing that such juveniles have committed an offense, the officer shall advise the juveniles of their Constitutional Rights (*Miranda* Warning). Officers will indicate in their reports that the juveniles were able to understand the *Miranda* Warning.

#### **2124.2 Juvenile Interviews and Interrogations**

The duration of an interview with a juvenile will be reasonable in length. Only the number of officers actually necessary to conduct the interview shall be present. Officers will take into consideration the age and psychological state of the juvenile when conducting the interview.

If a juvenile is only a victim or witness, officers may not involuntarily detain or take the juvenile into custody without parental permission or appropriate court order.

A member may confer with a juvenile's parents, legal guardians or custodian during an interview. If a parent is present and insistent on being present during the interview, they shall be permitted, unless the parent is also a suspect or it would interfere with the investigation. An officer will explain to the juvenile and parents/guardians any department policies or juvenile criminal justice system procedures that apply to the case at hand.

See *General Order 2140* regarding Interview and Interrogation policies.

#### **2124.3 Juvenile Prisoner Processing**

See *General Order 2150* regarding Prisoner Processing policies.

#### **2124.4 Juvenile Temporary Detention**

See *General Order 2180* regarding Temporary Detention policies.

#### **2124.5 Evidence and Testimony**

All items of an evidentiary nature pertaining to a juvenile arrest shall be gathered and maintained in the same manner as they would for any other criminal investigation. Arresting officers shall maintain records and shall be prepared to give competent courtroom testimony in all juvenile cases.

#### **2124.6 Ill or Injured Juveniles**

If an arrested juvenile is injured and is seen by Tucson Fire Department (TFD) paramedics and cleared (i.e. not in need of further medical treatment) prior to being transported, the



juvenile can be taken directly to PCJCC and booked. Upon arrival at PCJCC, the arresting officer will advise the booking staff that the juvenile was treated and cleared by TFD. The officer will document in the narrative of the *Multi-Purpose Report* the name and PR# of the paramedic who treated the juvenile. An *Injured Person Report* shall be completed in accordance with *General Orders* and field photos taken if applicable. Should they need documentation of treatment, PCJCC will contact TFD records directly.

If a juvenile is to be taken to PCJCC, and is or claims to be ill or injured, they shall be taken to the nearest available hospital. The method of transportation shall be discretionary, based on the situation. The standard Department *Injured Person Report* shall be completed and field photos taken if applicable. Immediately after reaching the hospital, the arresting or transporting officer shall telephone the Pima County Juvenile Court Center and inform them of the circumstances. Telephone notifications to PCJCC shall be documented in the officer's report and the name of the PCJCC member notified shall be included. Children treated and released shall then be transported to the detention facility.

PCJCC is only responsible for guarding hospitalized juvenile arrestees when the hospitalization occurs after the juvenile has already been accepted by PCJCC and cleared by the Intake Nurse.

## **2125 Offenses Committed by Juveniles**

An officer apprehending a juvenile offender may consider the following options for disposition. Transportation to the appropriate facility shall be made without unnecessary delay and the parents or guardians notified as necessary.

### **2125.1 Parental Referral**

In some cases, the officer may turn a juvenile over to the juvenile's parents for discipline. This alternative may be utilized when the offense and conditions involved are such that, in the opinion of the officer, parental action can correct the child's behavior and Juvenile Court adjudication is not required. Officers will document the incident and the fact that the juvenile was released to the parent or guardian with no referral to the Juvenile Court. Officers shall not use the parental referral option with any juvenile taken into custody for a sex-related offense (peeping tom, exposure, sexual assault, etc.). A found/returned runaway shall not be referred to the parent.

A Parental Referral is an arrest and the juvenile is listed as an "Arrestee" on all case paperwork.

### **2125.2 Paper Referral**

A *Paper Referral* is a form signed by the parent or guardian promising to appear with the juvenile. If the officer elects to paper refer the juvenile, a responsible party (see definition under *General Order 2121.1*) must be located to sign a *Parent's Promise to Appear (Paper Referral)* form for the juvenile. This alternative will be utilized when parental custody will, in the opinion of the officer, be sufficient to ensure the proper control of the juvenile pending Juvenile Court action. Officers shall provide the parent or responsible



party with a copy of the paper referral form. The Juvenile Court Center filing system is by the juvenile's mother's last name. It is essential that officers document this information on the paper referral.

When the parent, guardian, or responsible party is not available to sign or refuses to accept custody of the juvenile, a supervisor shall be contacted.

**2125.3 Center for Juvenile Alternatives (CJA)**

The Center for Juvenile Alternatives (CJA) is an alternative that should be considered prior to releasing a juvenile on a Paper Referral to a parent or guardian for a status offense. The CJA provides critical crisis intervention, assessment, referral and outreach services to status offenders, including a specialized program focusing on truancy issues.

**2125.4 Domestic Violence Alternative Center (DVAC)**

The Domestic Violence Alternative Center (DVAC) is an alternative to booking a juvenile into PCJCC. It provides an alternative to the traditional intake for juveniles who are charged with any Misdemeanor DV offense that is non-violence related. Probation Officers are located at the site to process the arrest.

Officers may also wish to contact DVAC regarding juveniles arrested for violence related DV offenses, as under certain circumstances, they may accept them into the program. DVAC is located on the eastside of the Pima County Juvenile Court Center's campus at 2225 E. Ajo Way. Immediate crisis intervention is offered by the on-site therapists. Short term (23-hour) respite is available on-site if it is not safe or possible for the youth to return home immediately.

**2125.5 Pima County Juvenile Court Center (PCJCC) Detention**

Another option is to transport the delinquent offender to the Pima County Juvenile Court Center (PCJCC). The *Juvenile Complaint/Referral* form shall be completed prior to any juvenile being incarcerated at the detention facility. (See also *General Orders* 2126.1.)

Officers will use the following guidelines in deciding to detain juveniles:

- The juvenile is an escapee from PCJCC (or a similar facility) or has an outstanding warrant.
- The juvenile (under age 15) is charged with murder, manslaughter, kidnapping, sexual assault, arson of an occupied structure, armed robbery, or aggravated assault. Juveniles 15 or older arrested under these charges shall be booked at the Pima County Jail.
- The juvenile is charged with a delinquent offense and there is no less restrictive alternative that will reduce the risk of serious harm to the juvenile or others (e.g., DUI with severe intoxication). This will require a medical release from the nearest available hospital prior to detention at PCJCC



- The juvenile is charged with a serious property crime or a crime of violence other than listed above, which, if committed by an adult, would be a felony, and one or more of the following circumstances exists:
  - The juvenile is already detained or on conditional release in connection with another delinquency proceeding.
  - The juvenile has a demonstrable record of willful failures to appear in Juvenile Court proceedings.
  - The juvenile has a demonstrable record of violent conduct resulting in physical injury to others.
  - The juvenile has a demonstrable record of adjudication for serious property offenses.

#### **2126 Juveniles Charged as Adults**

Arizona law provides that juveniles charged with certain offenses be booked into the Pima County Jail if the juvenile is 15, 16 or 17 years of age. Those "mandatory transfer offenses" are:

- First Degree Murder;
- Second Degree Murder;
- Forcible Sexual Assault;
- Armed Robbery;
- Drive-by Shooting;
- Discharging a Firearm at a Structure;
- Aggravated Assault (Serious Physical Injury);
- Aggravated Assault (Deadly Weapon—guns and knives only),
- Any felony offense committed by a Chronic Felony Offender.

The Pima County Attorney is responsible for establishing policy on reviewing juvenile cases for adult prosecution. If the Juvenile Unit of the County Attorney's Office determines a juvenile held at PCJCC is to be transferred to the adult system, the Juvenile Unit will file a delinquency petition and a judge will sign a complaint and enter an order authorizing the arresting agency to transport the juvenile from detention to jail.

#### **2127 Juvenile Traffic and Liquor Offenses**

Civil traffic violations and criminal traffic offenses, excluding DUI offenses, must be cited into City Court. DUI is the only juvenile criminal traffic offense that will be cited into Juvenile Court. City Court has no jurisdiction over any other type of juvenile offense. Juveniles who appear in City Court on criminal traffic violations are required to bring a parent or guardian to Court with them; a juvenile may appear alone on a civil traffic offense.

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All Title 4 offenses involving juveniles are to be referred to PCJCC, using either a paper referral or physical arrest. The Arizona Traffic Ticket and Complaint form may not be used to cite a juvenile into Juvenile Court on any charge.

#### 2128 **Juvenile Firesetters Program**

The Tucson Fire Department (TFD) has a program for juveniles from the ages of 8 to 17 who set or play with fire. Juveniles who have been arrested for fire setting behavior may be recommended to the class through their probation officer. A parent, guardian, police officer, or school may also refer juveniles. Arrest for a fire related offense is not a prerequisite for referral. Literature regarding the program is available from the Fire Department.

Juveniles younger than 8 who are referred to TFD are not enrolled in the program, but are counseled by a TFD civilian employee with an educational background related to this problem.

#### 2129 **Pima County Juvenile Court Center (PCJCC) Procedures**

When a juvenile is transported to the Pima County Juvenile Court Center, the officer shall attempt to contact the juvenile's parents to advise them of the location of their child. The *Juvenile Complaint/Referral* form shall be completed prior to any juvenile being incarcerated at the detention facility. See *General Order 2137.3* regarding guidelines for detention at PCJCC.

##### 2129.1 **Booking**

If there is a warrant or other non-status offense for which the juvenile is arrested, then the juvenile may be detained at PCJCC. Officers are to document their actions on the appropriate paperwork. Arresting officers shall complete an *Affidavit in Support of Probable Cause* when juveniles are arrested and detained. If a copy of the *Multi-Purpose Report* is left with the arrest paperwork, the officer may write "See attached report" on the *Affidavit* in place of a narrative. This form must be submitted with a *Juvenile Complaint/Referral Form*.

There may be times when the PCJCC is full. In those instances, the intake personnel will request that the officer transport the juvenile to another facility. These requests will be honored whenever possible. In situations where accommodation is an issue, a police supervisor shall be contacted for further direction.

##### 2129.2 **Fingerprints and Photographs**

The PCJCC fingerprints and photographs all juveniles that are detained on felonies. They will do this for other offenses on a request basis. All of the fingerprint cards and photographs are the property of the PCJCC. All requests for photographs and/or fingerprints must be routed through the Tucson Police Department's Identification Section. The photograph and fingerprint information will be sent from the PCJCC to the ID Section where copies may be made. It is the responsibility of the I.D. Section to make sure that the photographs and fingerprints are returned to the PCJCC.



### **2129.3 Interviewing Juveniles at PCJCC**

The PCJCC personnel will allow interviews of detained juvenile offenders. The intake staff will make the appropriate notifications regarding the interview. They will not interfere with the interview in any way. It is necessary for the interviewing officer to advise the juvenile at the beginning of the interview of their Constitutional rights. The juvenile has the right to refuse or terminate the interview.

The juvenile's probation officer may be present during the interview as well, but shall not take an active part in the interview. The probation officer may answer questions as to the juvenile's rights, but may not give legal advice.

### **2129.4 Incorrigible Juveniles**

The PCJCC does not incarcerate juveniles solely on incorrigibility charges. The Police Department will not respond to most calls reference incorrigibility. If a call for assistance involves an incorrigible juvenile, and there are mitigating circumstances (violence or other emergency situations), officers may be dispatched to respond.

Anytime an officer is questioned about the possibility of having a juvenile declared incorrigible, the questioning party will be referred to the PCJCC for further information. If a juvenile commits a crime, the appropriate arrest action shall be taken, regardless of whether the juvenile is incorrigible or not.

### **2129.5 Status Offenses**

Officers shall be aware of what crimes constitute status offenses. The PCJCC will not accept a juvenile being detained for status offenses (i.e. offenses that are only applicable because the suspect is a juvenile). The Center for Juvenile Alternatives (CJA) will accept juveniles for status offenses, but not criminal offenses.

## **2130 SUSPECT IDENTIFICATION**

### **2131 General**

Officers shall follow these guidelines when conducting an identification procedure with a victim or witness to a crime. Any statements made by witnesses identifying possible suspects shall be completely and accurately documented by the officer. A suspect or likeness of the suspect shall not be displayed to more than one witness at a time. If there are several witnesses to a crime, and a show-up of a suspect is feasible and proper, arrangements shall be made for each witness to view the suspect separately. Officers shall not use the MTC or any other means to display a photograph of a potential suspect to a witness or victim. Display of suspect photos to victims and witnesses shall be conducted in accordance with accepted Department photo lineup procedures.



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An eyewitness identification procedure is unnecessary when the witness states that he or she is unable to recognize the perpetrator of the offense being investigated, knew the identity of the suspect before the offense occurred, or learned the identity without police assistance after the offense, e.g., an eyewitness recognizes the suspect's picture in a newspaper.

Individuals do not have a right to have a lawyer present at any photographic identification procedure.

#### **2131.1 Identification Protocol**

A witness who has taken part in an identification procedure shall not be permitted to state a conclusion within the hearing of another person who is about to view a lineup, or has already viewed a lineup in the same case. A police officer shall not, by any means, to include word or gesture, suggest that the suspect committed the crime. Witnesses making inquiries about an officer's opinion shall be informed of this restriction. When presenting a suspect to a witness for identification, an officer shall make every effort not to say or do anything to suggest to the witness that the suspect has been arrested or detained, has confessed, possessed incriminating items, or is believed to be the perpetrator.

#### **2131.2 Documentation of Identification Process**

A complete record of each identification procedure shall be made. The time, location, and other relevant circumstances (e.g. lighting conditions) and the identity of all persons present, including persons being viewed in the lineup who are not suspect, shall be noted. Statements made by a witness viewing the lineup shall be documented, along with any significant remarks made by an officer, lawyer, or suspect. Photographic, sound, and video recording devices will be used to document the identification procedure when possible. The type of lineup procedure used (e.g., photo, physical) shall be noted. The method of positive identification made by the witness shall be noted, to include the exact words used by the witness (e.g., "That's him, the third from the end with the mustache in the brown shirt.").

#### **2132 Show-Up Identifications**

If witnesses agree to participate and state that they might recognize the perpetrator, an officer may arrange a viewing of a potential suspect or arrestee by a witness or victim if the suspect/arrestee is detained/arrested within a short time of the offense (generally within two (2) hours). The show-up shall then occur as soon as practical.

It should be noted that the two (2) hour timeline is only a guideline and that the length of time that passes between the offense, the detention, and the show-up must be reasonable for the situation. Based on the severity of the crime and the circumstances, a Detective Sergeant should be contacted regarding the timeliness of conducting a show-up past the initial two (2) hours.

Nothing in these procedures precludes the transporting of witnesses in police cars to cruise the general area in which an offense has occurred in an effort to locate the suspect. The results of a

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show-up should not be broadcast on a police radio due to the proximity of officers to other potential witnesses.

#### **2132.1 Show-Up Location of**

The witness will be brought to the suspect's location as soon as possible for a show-up identification. Unless the suspect voluntarily consents to the transport, the suspect will not be taken to the witness' location for an identification procedure. If the suspect has been arrested, it is permissible to transport him/her to the witness' location.

#### **2132.2 Show-Up Suspect Detention**

A suspect shall not be detained for an unreasonable period of time (generally no longer than the time it takes to conduct a brief investigation to confirm or dispel suspicion that they have committed a criminal offense), unless probable cause to believe the suspect committed the offense develops during the detention, or, after being clearly informed that cooperation is not mandatory, the suspect consents to take part in the show-up.

#### **2132.3 Emergency Show-Up**

In emergency circumstances, such as when a witness is in danger of death, blindness or other seriously incapacitating medical condition, an immediate show-up may be arranged if medically permissible. In these situations, the limitations contained in the preceding procedures may be disregarded. Any situation that prompts officers to deviate from these procedures shall be thoroughly documented, and a supervisor shall be notified.

#### **2132.4 Hospitalized Suspects**

When prompt identification is possible or necessary, and a suspect charged with the offense under investigation is hospitalized for extended treatment under non-emergency circumstances, witnesses may be taken to the hospital for viewing within the time constraints outlined above. The identification procedure shall be completely documented in accordance with these procedures.

#### **2132.5 Show-Up Right to a Lawyer**

Individuals do not have a right to the presence of a lawyer at any show-up procedure.

#### **2132.6 Show-Up Documentation**

Officers conducting a show-up shall note the date and time of the show-up, as well as any reactions of the victim or witness to the suspect. Exact verbiage is necessary when noting either the identification of the suspect by the victim or witness or conversely the failure to identify the suspect.

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## 2133 Photo Lineup Display

### 2133.1 General

The only authorized means of displaying a photographic lineup shall be the sequential blinded method. No member may conduct a photographic lineup unless they have undergone specific Department training on administering a blinded sequential lineup procedure.

Whenever a photograph depicting an identified suspect is displayed to a victim or eyewitness, it shall be shown sequentially in random order with five or more photographs of different persons. The persons depicted in the photos, as well as the quality and characteristics of the photos themselves (e.g. all color photographs) must be of substantially similar general appearance. A name or any identifying information shall not be shown. The background in the photograph will also be the same on each picture, or as similar as possible. "Mug" or "ID" folders, identified by printing on the folders as such, shall not be used. If multiple suspects are involved, only one suspect shall appear on each lineup sequence. Photographic lineups shall not be shown on a single-page display.

Officers shall use Departmentally accepted and established practices to randomize the order of the photographs prior to showing them to the victim or witness, and to position themselves in a manner that they are unable to see the photos as they are viewed by the victim or witness.

Prior to administering a lineup, the victim or witness shall be admonished that the suspect may or may not be depicted in the photo series, that the detective does not know the order in which the photos will be displayed and that the investigation will continue, even if no identification is made. The Department prepared admonishment shall be read to the victim or witness verbatim and be signed by the victim or witness.

The victim or witness must completely view the series even if the suspect has already been identified from the series. Questions intended to clarify the relationship of the person identified to the crime shall be asked after the witness or victim has viewed the entire series.

Officers shall not provide any manner of feedback to the victim or witness regarding any identification or lack of identification, to include statements or gestures indicating that the correct person was or was not identified.

### 2133.2 Documentation

Officers conducting the photographic lineup procedure shall note their initials and payroll numbers on the back of any photograph identified as the suspect, as well as the date and time the photographs were shown to the victim or witness. The officer shall observe the

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witness or victim and document any reactions of the victim or witness to the photographs in a non-obtrusive manner. If the suspect is identified from the photographic sequence, the officer shall note the date and time on the back of the suspect's photograph at the conclusion of the procedure.

### **2133.3 Preservation**

Each photograph shown in a display shall be retained in the manner prescribed in Department lineup training. Photographs used shall be preserved so that the display can be reconstructed at trial. This procedure shall be adhered to in all photographic identification procedures including those where a suspect is not identified.

## **2134 Physical Lineup**

### **2134.1 General**

All physical lineups shall consist of at least six persons, including the suspect. If multiple suspects are involved, only one suspect shall appear in each lineup. Persons placed in the lineup shall have similar physical characteristics. Factors such as age, height, weight, hair length and color, and physical build will be considered. Sex and ethnicity, if obvious, shall be the same for all participants. The suspect shall be informed that they can choose initial position in the lineup and that this position may be changed after each viewing.

### **2134.2 Exceptions to Conducting a Lineup**

When identification by a witness may be obtained, a lineup will be held following the arrest of the suspect, unless one of the following circumstances makes a lineup infeasible or impractical because:

- There is a lack of persons to include in the lineup group who have similar physical characteristics as the suspect.
- The suspect was released on bond or recognizance before viewing could take place.

### **2134.3 Right to Attorney**

Suspects have the right to have a lawyer present at a physical lineup. This shall include lineups that occur prior to indictment. The suspect shall be advised of the right to have a lawyer present at the lineup. A lineup shall be delayed for a reasonable time while waiting for a lawyer to arrive following notification. If the suspect already has a lawyer and indicates a desire to have the lawyer attend the lineup, the suspect shall be allowed to notify the lawyer about the planned lineup, and the offense involved. If the suspect has not already retained a lawyer, but wants one to attend the lineup, and can afford one, a reasonable time shall be allowed to retain a lawyer. If the suspect has no lawyer but wants one to attend the lineup, and cannot afford to retain a lawyer, the officer conducting the lineup shall contact the Pima County Public Defender to arrange for a lawyer to assist the suspect. If the Pima County Public Defender refuses to provide an



attorney for the suspect prior to indictment, contact the County Attorney or the Department Legal Advisor for the proper procedure to follow.

#### **2134.4 Waiver of Attorney**

A suspect who is entitled to a lawyer at a lineup may waive this right. If the suspect waives the right to have a lawyer present at the lineup, officers shall fully document that the suspect had full knowledge of the effect of waiving the right, and freely and voluntarily consented to the waiver. The suspect's precise words providing such a waiver must be documented as part of the investigative file. Any such waiver shall be tape-recorded or officers shall provide a statement acknowledging the waiver signed by the suspect.

#### **2134.5 Role of the Attorney at a Physical Lineup**

Lawyers shall be allowed to consult with their clients prior to the lineup and to observe the lineup procedure. Such consultation shall take place outside the presence of any witnesses and/or officers. The lawyer may make suggestions, but may not control or obstruct the procedure.

Any suggestions made by the lawyer about the process shall be considered and recorded. Those suggestions that would enhance the process and encourage consistency with these procedures shall be implemented.

A lawyer shall be permitted to be present when a witness expresses a conclusion about the lineup. The lawyer shall be instructed to remain silent during both the lineup and the giving of the witness' conclusion. The lawyer may speak with any witness after the procedure, if the witness agrees to do so. Witnesses taking part in a lineup procedure shall be told that they are under no obligation to speak with the lawyer, but that they are free to do so if they wish. The witness' name and address will not be revealed to the lawyer without the witness' consent.

#### **2134.6 Suggestions**

Officers shall neither say nor do anything to set a suspect apart from the other lineup participants or in any way indicate the identity of the suspect.

#### **2134.7 Conduct of Lineup Participants**

Photographs or video recordings shall be made of all lineup procedures. Non-suspects in the lineup shall be instructed to conduct themselves so as not to identify the actual suspect. The suspect can be instructed to utter specific words, make gestures, or assume a particular pose, if the viewer so desires. All participants shall do whatever reasonable act is required of the suspect. If a witness describes the suspect as wearing a distinctive item of clothing, and the item (or something similar) is in police custody, the suspect can be compelled to wear the item. Each participant shall wear the item of clothing in the order of appearance in the lineup.



Suspects who refuse to participate in a lineup, or to perform during a lineup as required, shall be informed that there is no right to refuse, and that evidence of refusal may be used against them at trial. Documentation of the precise words of the refusal (tape recorded if possible) shall be made for subsequent use.

If the suspect continues to refuse, in most cases, participation in the lineup or performance of a certain act shall not be forced. However, when necessary and with approval of a Commander, compliance may be forced. When this occurs, the other lineup participants shall be instructed to act in a manner similar to that of the suspect.

## **2135 Court Orders for Obtaining Evidence of Physical Characteristics**

### **2135.1 General**

Statute provides a procedure whereby a peace officer, while investigating a felony, may seek a court order authorizing the officer to pick up and detain a suspect in order to obtain evidence of identifying physical characteristics. Pursuant to the order, officers may obtain fingerprints, palm prints, body measurements, handwriting samples, voice exemplars, blood samples, urine samples, saliva samples, hair samples, semen and other material containing DNA material (e.g., buccal cell samples), evidence of comparative personal appearance (standing up for a lineup), and photographs of an individual. The order permits officers to take a felony suspect into custody for this limited purpose for up to three (3) hours.

More intrusive collections of physical characteristics, (e.g., buccal cells, blood, urine and semen) require a search warrant if it is prior to a Grand Jury indictment and a Court Order if it is after a Grand Jury indictment.

In order for a Magistrate to issue an order, the officer must demonstrate reasonable cause to believe a felony has been committed and that procurement of evidence of identifying physical characteristics from the individual described in the order may contribute to the identification of the perpetrator of that felony.

### **2135.2 Procedures to Follow to Obtain a Court Order**

To obtain a court order for physical characteristic evidence, the investigating officer shall prepare both a court order and an affidavit in support of the court order. An order may be obtained telephonically in the same manner as a search warrant. The investigating officers shall include all required information in the proper court order form.

The *Arizona Court Order for Physical Characteristics and Affidavit in Support of Court Order* shall be used for this purpose, and if properly filled out, will provide all of the statutory requirements to obtain an order. The investigating officers may seek the assistance of the Legal Advisor or County Attorney in drafting these documents if assistance is necessary. The following information must be contained in the court order and affidavit in support of the court order:

- The felony under investigation,



- The type of physical characteristic evidence being sought
- A statement that this evidence cannot otherwise be obtained from the Department or from the Department of Public Safety. This provision of the statute requires the investigating officers to make a records check with their agency and D.P.S.
- The relevance of the evidence to the case being investigated
- The identity of the individual to be detained for the taking of the evidence. The suspect will be identified in detail, including name, physical description, and residence and business addresses.
- The identity of the investigating officers who will conduct the taking of the evidence
- The place where the evidence will be taken. In most cases, the place for seizure of the evidence will be the actual location of the suspect. Only when the type of evidence sought is of such a nature that it requires a special location, such as for collection of blood, taking of photographs or conducting a lineup, will the suspect be required to accompany the investigating officers to another location.
- The hours during which such evidence can be seized. The time period from seizing physical evidence is limited to not more than three hours and will be done during daylight hours. This limitation will require the investigating officers to make necessary preparations prior to obtaining the evidence.
- The time during which the court order remains in effect, not to exceed fifteen days
- An indication that the individual has been asked to voluntarily give the evidence to the officer and has refused to cooperate

The affidavit in support of the court order must also contain a detailed discussion of the facts constituting the officers' belief that the suspect may be the person who committed the crime under investigation. This must show the existence of a reasonable cause that the suspect may be the one who committed the offense under investigation. Reasonable cause is less than the standard of proof required for probable cause to arrest and obtain a search warrant.

### **2135.3 Execution of the Court Order**

The court order to seize physical characteristic evidence must be executed at the time and place specified in the order, or as soon afterwards as possible if the suspect cannot be found on the date specified in the order. The officer executing the order may use a reasonable amount of force to take the evidence specified in the order. If the nature of the physical characteristic evidence requires the cooperation of the suspect (i.e. giving a voice or handwriting sample), and there is no cooperation, the suspect will be in violation of the court order and can be held in contempt of court for failure to comply with the order. If the suspect refuses to cooperate in this situation, the officer shall not make an arrest, but rather shall report the incident to the court issuing the order. The court will require the suspect to come to court and show cause why the suspect should not be held in contempt.

The order must be returned within fifteen (15) days from issuance (unless extended by the court for an additional time period not to exceed 15 days). The order must be

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returned within thirty (30) days after its issuance. The return shall contain a sworn statement from the officer taking the evidence, consisting of a description of the evidence taken.

## **2140 INTERVIEWS AND INTERROGATIONS**

### **2141 General**

A designated interview room is any room in which a person may be securely detained for the purpose of questioning. This differs from temporary detention in that the interview and interrogation process typically involves repetitive contact with detainees/arrestees.

Detainees in designated interview rooms must be secured to a stationary item expressly designed for secure detention purposes (e.g., a handcuff ring).

Interview rooms are typically equipped with only a table and chairs/stools. Since these rooms do not provide access to restrooms, water, or privacy for breaks, if they are used for longer periods of time (i.e., over 1 hour), detainees must be provided access to these amenities.

Only the number of officers actually necessary to conduct an interview or interrogation shall be present. Members are not required to secure their firearms prior to entering an interview room, unless this area is housed within the secure temporary detention area (pod). Since officers are not required to remove their firearms or other weapons, officers must be mindful of weapon control when conducting interviews and interrogations.

Officers are required to log all juveniles and adults that are detained at departmental facilities for interview and interrogation, prisoner processing, and temporary detention. These facilities are required to maintain a monthly **Juvenile Detention Log** and a separate **Adult Detention Log** listing the following information regarding each detention:

- date;
- time in and out;
- payroll number of the officer who secured the detainee and of the officer who removed the detainee;
- detainee's name, date of birth, and gender;
- case number;
- charges; and
- whether a meal was provided to the detainee (i.e., during prolonged questioning).

Juvenile arrestees cannot be securely detained for longer than six (6) hours. If further time is needed, a juvenile may be moved from secure to non-secure detention, though this will require a new log entry.

Damage found after an interview room is utilized shall be appropriately documented in a report and the arrestee shall be charged with Criminal Damage as appropriate.

The cleanliness of the interview room used is the responsibility of the member in charge of the detainee. All Departmental personnel shall promptly report, or handle the problem themselves if



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appropriate, all issues that come to their attention concerning cleanliness, damage, or unsafe conditions in these facilities.

## 2142 Security

Interview rooms shall be monitored either in person or via department-authorized audio/video surveillance for the entire time these rooms are in use to ensure immediate response to an arrestee who is in distress or requires attention.

Detainees secured in interview rooms shall be secured to a stationary item expressly designed for secure detention purposes (e.g., a handcuff ring).

***If a detainee cannot be secured to, or is temporarily released from, the handcuff ring (e.g., the arrestee is released to use the restroom), the department member shall remain in direct observation of the detainee until he or she is secured to the handcuff ring, transported to the jail or prison, or released.***

***The responsible member shall ensure the welfare, safety, and security of the detainee until his/her release or transfer. The member shall conduct an in-person check of the detainee's welfare at a minimum of fifteen (15) minute intervals.***

Detainees held in an interview room are the responsibility of the member who places them in the room until they are released to another sworn department member. As such, it is imperative that the officer responsible for the initial placement of a detainee into an interview room thoroughly search both the detainee and the room prior to placement, and the room again after removal. The mere fact that another officer has already searched a detainee does not preclude further officers from conducting similar searches.

As most interview rooms are not equipped with panic alarms, members are reminded to utilize their handheld radios to call for emergency assistance as necessary.

While a subject is kept in an interview room, the interior light of that room shall be on.

## 2150 PRISONER PROCESSING

### 2151 General

A designated area is set aside in each Department substation for prisoner processing. This involves pre-booking activities on in custody detainees, to include DUI and DRE investigations. Prisoner processing areas differ from temporary detention cells, in that they involve continuous contact with detainees, whereas temporary detention cells allow an arrestee to be left secured and unattended.

Members are not required to secure their firearms prior to entering prisoner processing, unless the processing area is housed within the secure temporary detention area (pod). As the removal of firearms or other weapons is not required, officers shall be mindful of weapon control when conducting prisoner processing.



Officers are required to log all juveniles and adults that are detained at departmental facilities for interview and interrogation, prisoner processing, and temporary detention.

These facilities are required to maintain a monthly ***Juvenile Detention Log*** and a separate ***Adult Detention Log*** listing the following information regarding each detention:

- date;
- time in and out;
- payroll number of the officer who secured the detainee and of the officer who removed the detainee;
- detainee's name, date of birth, and gender;
- case number;
- charges; and
- whether a meal was provided to the detainee (i.e., during prolonged questioning).

Juvenile arrestees cannot be securely detained for longer than six (6) hours. If further time is needed, a juvenile may be moved from secure to non-secure detention, though this will require a new log entry.

Upon conclusion of processing, if further time is needed to complete pre-booking or field release paperwork, the detainee should be transferred to a temporary detention cell. Arrestees shall not be temporarily detained (left secured and unattended) in prisoner processing areas.

The cleanliness of the detention cell used is the responsibility of the officer in charge of the arrestee. All Departmental personnel shall promptly report, or handle the problem themselves if appropriate, all issues that come to their attention concerning cleanliness, damage, or unsafe conditions in these facilities.

#### **2152 Security**

Detainees secured for prisoner processing must be secured to stationary items expressly designed for secure detention purposes, e.g., a handcuff ring. Members are required to maintain constant supervision of detainees in prisoner processing.

As most prisoner processing areas are not equipped with panic alarms, members are reminded to utilize their handheld radios to call for emergency assistance as necessary.

### **2160 PRISONER HANDLING PROCEDURES**

#### **2161 General**

It shall be the policy of the Tucson Police Department to treat all suspects and prisoners humanely and with regard for their well being, safety and legal rights.

#### **2162 Field Arrest Procedures**



#### **2162.1 Searches**

All persons taken into lawful custody and transported shall be searched in accordance with those Department procedures that address searches incident to an arrest. It shall be the responsibility of each officer assuming control and custody of the prisoner to conduct a thorough search of that prisoner. For the purposes of this General Order, control and custody means accepting transfer of a prisoner and does not include brief periods when an officer observes a prisoner at the request of another officer, who remains responsible for the prisoner.

#### **2162.2 Transportation**

Prisoners will be transported in screened vehicles. Unless circumstances dictate otherwise, the prisoner will be handcuffed in the manner prescribed by training and restrained by use of the seat belt or other restraining device in a manner that will prevent injury to the prisoner or to the police officer.

Transporting officers shall search prisoners prior to placing them in the vehicle.

Hand carried items, such as purses, briefcases, knapsacks, etc., which are the prisoner's property shall likewise be searched for weapons if they are to be transported in the police vehicle. These items shall not be transported in the prisoner compartment of the police vehicle.

Transporting officers shall search the area of the vehicle occupied by the prisoner prior to and after the transport.

Officers shall complete a Transport Log on the MTC for all transports (e.g., public assists, witnesses, arrestees, suspects, etc.). The log will include the destination and odometer reading (last four digits only, i.e., 354.5). Upon arrival, an ending Transport Log shall be completed. A dispatcher shall be notified verbally if an MTC is not available.

#### **2163 Pima County Jail (PCJ) Procedures**

Members of the Department shall secure all firearms, dangerous instruments, and incendiary devices (e.g., matches, cigarette lighters, etc.) before entering a detention facility. All weapons, to include firearms, ammunition, Tasers, batons, pepper spray, and knives shall be secured out of view in a police vehicle trunk or in a locker provided by the detention facility, unless a specific request to the contrary is made by the Commander of the detention facility. Officers shall ensure, to the best of their ability, that non-police personnel do not become aware of the presence of auxiliary firearms when weapons are secured.

The Pima County Sheriff's Office (PCSO) jail procedures concerning security of prisoners and weapons shall be strictly adhered to. If an officer opts to utilize the weapon lockers provided by the detention facility, the officer shall ensure that they are separated from the prisoner by the security door prior to securing their weapons.

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### 2163.1 Booking Procedures

All initial misdemeanor arrests (not warrants) require as part of the booking process the completion of a *Release Questionnaire (Form 4)*. The information contained in the form must be sufficient for the arraignment judge to determine appropriate release requirements. The *Release Questionnaire (Form 4)* shall be placed with the citation in the lock box located outside the jail intake doors (same area where prisoner property is stored).

All initial Felony arrests and confirmed out of state felony warrants, require as part of the booking process the completion of a *Felony Interim*. When charging a suspect with a felony, do not cite for any lesser included civil or misdemeanor charges. Document these lesser included, (e.g., felony fleeing and misdemeanor reckless driving), offenses in the *Multi-Purpose Report*. Misdemeanor charges that are separate offenses from the felony may be cited. In cases involving a felony arrest, with a separate misdemeanor charge, the *Release Questionnaire (Form 4)* shall also be completed. The *Felony Interim* is left in a marked tray in booking.

If an officer is booking a subject that has questionable identification, the officer shall make note of this using one of the following methods:

Document the lack of proper identification in the body of the case report or book the subject as a JOHN/JANE DOE and list all given names under "Alias."

Arizona law requires that all custodial arrestees be asked their country of origin. If officers have information bearing on an arrestee's alien status, that must be provided to the court for purposes of determining bail.

Officers must provide appropriate notification to foreign Consular Officials when foreign nationals of their country are arrested or otherwise detained for an extended period. A *Consular Notification Form and Fax Sheet (TPD#3208)* shall be completed each time. The primary case officer is responsible for ensuring that the appropriate box is checked regarding the Voluntary or Mandatory notification status of the country and if Voluntary notification is declined. See *General Order 2119.2* regarding Consular Notifications.

In many instances when a suspect is arrested, circumstances develop that could substantiate additional charges. In such instances, only one violation shall be indicated unless each is a separate and clear-cut offense. No complaint shall be placed against a subject for the purpose of harassment. In the event of multiple misdemeanor charges or any combination of warrants and misdemeanor charges, suspects (if booked) shall be booked on all of the charges. They shall not be booked on one and field released on the others.

Prisoner's property that will not be accepted by the jail (e.g., bedroll, knapsack, carrying bag, etc.) shall be placed in the appropriate outside storage bins located



in the booking parking lot. A *Prisoner Property Receipt* shall be completed and one copy will be placed outside of the appropriate storage bin and the other copy given to booking personnel at the time of booking

If a person is in possession of an animal at the time of arrest, the officer shall make every effort to release the animal to a friend, a relative, or a neighbor of the arrestee. If this cannot be accomplished, the Pima County Animal Care Center shall be contacted to take possession of the animal. Fees incurred for the care of the animal shall be the responsibility of the arrestee.

#### **2163.2 Strip Searches**

No officer shall request a strip search of a suspect without the express permission of a Commander. Strip/body cavity searches (incident to felony arrest or to a search warrant) shall only be conducted by medical or jail personnel utilizing medical or jail facilities to ensure safety and privacy for the individual. Pima County Jail requires probable cause and the completion of a memorandum at the time of the request, documenting the basis for the search.

Officers, of the same gender as the arrestee, may observe only if it is considered necessary for the preservation of evidence. In every case, the search shall be documented in a *Multi-Purpose Report* or *Supplementary Report*.

### **2164 Ill or Injured Prisoners**

#### **2164.1 Care and Handling**

Members shall be responsible for the proper care and handling of injured or ill prisoners. If a prisoner is ill or injured or sustains an injury while or after being taken into custody, the arresting officer shall immediately notify their supervisor and obtain appropriate medical treatment for the prisoner.

Whenever possible, prisoners who have been physically arrested (i.e., full custody arrests) and require hospital treatment, will be transported to the nearest hospital.

Should the hospital refuse to treat an ill or injured prisoner, or the jail refuses to accept an ill or injured prisoner who has been treated, the officer shall immediately request that an on-duty supervisor respond to the hospital or jail and attempt to resolve the situation. If the supervisor cannot resolve the situation, the supervisor shall immediately contact the Department's Legal Advisor and the Division or Force Commander. Complete documentation of the incident shall be addressed in a *Supplementary Report* by the transporting officer. In addition, the transporting officer shall forward a memorandum to the Legal Advisor citing the case number and the fact that the hospital refused to treat the prisoner or that the jail refused to accept the prisoner.

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#### 2164.2 ***Injured Person Report (IPR)***

The *Injured Person Report* (TPD 732) shall be completed when an arrestee, whether to be booked or field released, complains of illness or injury, or has any injury including minor cuts, bruises and abrasions that are present at the time of arrest or are sustained during or after the arrest. The (IPR) shall also be completed in all instances when direct contact between a member of the Department and any citizen results in physical injury, or complaint of physical injury. The officer who observes the injury, who is involved in the circumstances of the injury, or who is the recipient of any report of the injury or illness will be responsible for completing the form. Officers will document how the injuries occurred if this information is known.

The *Injured Person Report* will accompany the arrestee until he or she is no longer under the care of TPD. A copy of the report will be given to the Pima County Jail or, if the arrestee is a juvenile, to the Pima County Juvenile Court Center, and the original to Records.

When an ill or injured prisoner is booked, officers will convey to the Booking Officer any instructions or medications provided by a treatment facility.

If another injury occurs subsequent to completion of the original *Injured Person Report* and all copies of this report are available, the injury shall be documented in the original *Injured Person Report*. If all copies are not available, a second *Injured Person Report* shall be completed. When an original *Injured Person Report* is amended by a second officer, the amending officer shall initial the added narrative and include his or her name and payroll number at the bottom of the report.

Field photos should be taken if appropriate. See also *General Orders* under Force regarding the requirements for the reporting of use of force.

### 2165 **Special Circumstances**

#### 2165.1 **Pregnant Prisoners**

Extreme care shall be taken if a female indicates that she is pregnant. In all cases where a physical arrest will be made, authorization shall be obtained from a supervisor. In most misdemeanor cases, the arrest of a pregnant female will take the form of a field release. If a field release is made, complete details of the situation shall be included in the police report. In all felony cases, and in those misdemeanor cases where physical arrest is mandated, release of a pregnant female shall only be made upon authorization of a supervisor.

If, prior to booking, a pregnant female indicates that she might have a miscarriage or go into labor, she shall be taken immediately to the nearest hospital for examination. An *Injured Person Report* shall be completed.



#### **2165.2 Diabetic Prisoners**

Persons suffering from diabetes and certain other diseases may have an appearance commonly associated with intoxication from alcoholic beverages. When an officer is informed that a person is diabetic, and there is reason to believe that the diabetes is not under control, e.g., high blood sugar or insulin shock, TFD Paramedics shall be requested to examine the person.

#### **2165.3 Mentally Ill Prisoners**

If a prisoner is suffering from mental illness, the procedures governing the handling of mentally ill person shall be followed. Prior to entering a mental ward, officers may be required to secure all weapons, and officers shall follow security protocols associated with any mental health facility.

### **2170 PRISONER GUARD DUTY**

A Headquarters Security Officer is responsible for scheduling all guard duty requests by accessing the personnel computer under the Share Drive/Guard-Duty-Folder, Monday-Friday 0730-1730 hours. In the event guard duty is needed after hours or on the weekend, the Incident Supervisor will ensure the following procedures are followed.

A blank *24-Hour Guard Duty Log* (TPD 730) will be completed and printed from the Guard folder. After completing the form, go to "Save As," label the form with the Case Number, and save it to the "Current Guard Duty Folder." The form should have the current date and indicate the proper 24-hour rotation for each division. Print a copy of the form to fax (as outlined below). The original form shall then be placed in the Headquarters Sergeant's in box on the door adjacent to the Headquarters Desk. A copy is also placed in the logbook that goes to the hospital.

The arresting division has the responsibility of guarding the prisoner until 2400 hours on the day of the arrest and the following day if the arrest is made after 1200 hours. Other divisions are rotated and scheduled according to division number, beginning with the division that initiated the guard duty. If the arrest is made by ODM (Team 3), they will guard the prisoner until 2400 hours that day. At 0001 hours, ODE (Team 4) will take over, then ODD (Team 5), and so on.

Once the log information is complete, fax a copy to each substation and Communications. If this occurs after 1700 hours when substation offices are closed, then a supervisor in each division shall be personally contacted to advise of the fax and pending guard duty. If faxing from Headquarters, use the "Guard Duty" button and the fax will be sent to all divisions.

An officer from the arresting team will pick up a Guard Duty Logbook from Headquarters. There are three books numbered 1-3 that are stored in Cabinet # 20 on the north wall behind the Headquarters desk. The book will contain a set of leg irons, which shall be returned with the book upon the completion of guard duty. The Officer will deliver the Guard Duty Logbook to the appropriate hospital for the commencement of guard duty.

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Officers are to log in and update information as required in the logbook and follow any other instructions listed per the assigned detective. (As a reminder, all comments written in the Logbook are subject to disclosure.) It is the responsibility of the guarding officer to advise headquarters of any changes, such as room numbers. If Headquarters is closed, the change shall be personally communicated to a supervisor in each division and a fax sent to the divisions. All changes in room/hospital status shall be indicated in the "Current Guard Duty Folder" on the form saved under the case number and again faxed to the Divisions.

When guard duty has ended, it is the responsibility of the Headquarter officer during normal business hours to notate the reason the guard duty has been terminated with a black marker across the guard duty face sheet, with the date and time. Typically, the notation will be "Booked." The face sheet is then faxed to all the divisions and communications.

If Headquarters is closed, the officer returning the Logbook shall notate the reason for guard duty termination on the guard duty face sheet and place the entire Logbook in the Headquarters Sergeant's "in box" when returning the Logbook and leg irons to Headquarters. This officer will then fax a copy to all the divisions and communications and a supervisor in the division next assigned guard duty will be personally contacted and advised of the fax. All divisions are to place the guard duty termination fax in briefing books.

A Headquarters Security Officer shall verify that the leg irons have been returned with the Logbook and sanitize them. Headquarters will also submit all logs contained within the Logbook to records. The case number shall be written on each page of the log if it has not already been done. Log paperwork that was used will be replaced so the book is ready for the next guard duty.

**2171 Hospitalized Prisoners**

While prisoners are occasionally hospitalized, guard duty is not always undertaken for each prisoner. During those instances when guard duty is undertaken, the Prisoner Guard Duty protocol outlined under *General Order 2170* shall be followed.

Prisoners may be secured via handcuffs, leg irons, or any other method necessary to prevent escape without hindering medical personnel.

No visitors shall be permitted without the express permission of the assigned detective supervisor. Generally, only members of the prisoner's immediate family are allowed visitation rights. A lawyer may be allowed to visit a client after it has been verified that the person is the prisoner's lawyer. Officers assigned to guard hospitalized felons shall maintain a log listing the names and addresses of all visitors during their tour of duty. These logs will be submitted with the Logbook upon its return to Headquarters.

Visitors will be frisked for weapons or contraband prior to having contact with the prisoner. Packages, purses, or other items carried shall be subject to search and removed from the proximity of the visitor and the prisoner during the visit. Visitors are not entitled to privacy for their visit.



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A lawyer visiting a client will be searched for weapons prior to having contact with the prisoner. Lawyers will be permitted private communication with the prisoner. The guarding officer is required to maintain a visual presence.

All other visitors shall remain under police observation while with a prisoner.

#### **2171.1 Misdemeanants**

If possible, hospitalized misdemeanants will be field released. The guarding of a misdemeanor offender will be performed only in exceptional cases. If the suspect is physically incapable of signing a citation, complete the paperwork and forward it to the appropriate follow-up investigative unit. If the officer has reason to believe that the suspect will not appear on the charge, a determination shall be made concerning guard duty on the subject. The decision will be made by either the on-scene supervisor or a detective supervisor

#### **2171.2 Felons**

Any individual suspected of having committed a felony who is admitted to a hospital shall, at the discretion of either the on-scene supervisor or a detective supervisor, be guarded on a twenty-four (24) hour basis until booking at the Pima County Jail can be completed. If the decision is made not to guard the suspect, then no arrest shall be made at that time.

### **2180 TEMPORARY DETENTION**

#### **2181 General**

Temporary detention cells are designated areas within the Department utilized for securing arrestees who are left unattended. Sight and sound separation from adult arrestees is required for juveniles. In addition, male and female adults must be physically separated (sight and sound separation is not mandated).

Members shall secure their firearms prior to entering a temporary detention cell or entering an area (pod) in which temporary detention cells are contained. See General Order 2187 for further information regarding detention cell security.

**All detentions longer than two (2) hours require supervisor approval.**

Detainees secured in temporary detention cells must be secured to a stationary item expressly designed for secure detention purposes (e.g., a handcuff ring).

Juvenile arrestees cannot be detained in a detention cell longer than six (6) hours. If further time is needed, a juvenile may be moved from secure to non-secure detention, though this will require a new log entry as outlined in this section.

Officers are required to log all juveniles and adults that are detained at departmental facilities for interview and interrogation, prisoner processing, and temporary detention. These facilities are

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required to maintain a monthly Juvenile Detention Log and a separate Adult Detention Log listing the following information regarding the detention:

- date;
- time in and out;
- payroll number of the officer who secured the detainee and of the officer who removed the detainee;
- detainee's name, date of birth, and gender;
- case number;
- charges; and
- whether a meal was provided to the detainee (i.e., during prolonged detention).

Damage found after a temporary detention cell is utilized will be appropriately documented in a report and the arrestee shall be charged with Criminal Damage as appropriate.

At a minimum, water, restroom access, and a clean detention cell should be provided to those in temporary detention. The cleanliness of the temporary detention cell is the responsibility of the member in charge of the detainee. All departmental personnel shall promptly report, or address the problem themselves if appropriate, all issues that come to their attention concerning cleanliness, damage, or unsafe conditions in these facilities.

#### **2182 Mobility Impaired Detainees**

Detainees who are mobility-impaired shall be detained in accessible detention cells pursuant to the Americans with Disabilities Act of 1990.

#### **2183 Teletypewriter/ Telecommunications Device for the Deaf (TTY/TDD)**

A TTY/TDD will be provided for detainees who identify themselves as deaf or hearing-impaired, as they are entitled to a level of service equivalent to that provided hearing persons. Persons who are hearing impaired shall be permitted to use the TTY/TDD communication device for a longer period of time to make their outgoing call(s) due to the slower nature of TTY/TDD communications compared with voice communications.

#### **2184 Occupancy**

No more than one prisoner will be placed in a detention cell at one time. If more than one arrestee is brought into the facility at one time, the detention cell shall be used for those charged with the most serious crimes or who present the greatest escape risk. All others will be held in the interview rooms.

#### **2185 Searching the Arrestee**

Arrestees who are detained for felony or misdemeanor offenses shall be thoroughly searched in accordance with *General Order 2233: Searches Incident to Arrest*. This search shall be conducted immediately prior to securing the arrestee in the detention cell.



The arrestee's shoes, the contents of the arrestee's pockets, along with any jewelry and non-essential clothing items, shall be removed from the arrestee and kept in a property bag and secured.

**Any item that constitutes a potential threat to the arrestee or others, (e.g, weapons, belts, laces on clothing, cords, wire, rope, chains, headbands, neckties), shall be removed from the arrestee, placed into a property bag, and secured away from the arrestee.**

Arrestees shall not be allowed to possess any smoking materials or incendiary devices (e.g., matches, cigarette lighters, etc.) or any items that can be used to cause damage to the detention cell.

#### **2185.1 Strip Searches**

If an officer has reason to believe that an arrestee has contraband on his or her person and it is not revealed by a standard search, a strip search may be requested. No officer shall request a strip search of a suspect without the express permission of a Commander. Strip/body cavity searches (incident to felony arrest or to a search warrant) shall only be conducted by medical or jail personnel utilizing medical or jail facilities to ensure safety and privacy for the individual. Pima County Jail requires probable cause and the completion of a memorandum at the time of the request, documenting the basis for the search.

Officers, of the same gender as the arrestee, may observe only if it is considered necessary for the preservation of evidence. In every case, the search shall be documented in a *Multi-Purpose Report* or *Supplementary Report*.

#### **2186 Detention Cell Searches and Cleanliness**

Prior to placing an arrestee in a detention cell and upon removal from it, the officer responsible for the arrestee shall examine the cell for property, contraband, and damage. Damage found after the cell is used will be appropriately documented in the report of the arrest and the arrestee shall be charged with Criminal Damage as appropriate.

The cleanliness of the detention cell used is the responsibility of the officer in charge of the arrestee. All Departmental personnel shall promptly report, or handle the problem themselves if appropriate, all issues that come to their attention concerning cleanliness, damage, or unsafe conditions in these facilities.

Weekly checks shall be made by the First Sergeants to ensure cleanliness and to locate any damage to the facility. Checks will be recorded on the division's detention logs. If issues involving cleanliness, damage or unsafe conditions are evident, the division First Sergeant shall ensure that steps are taken to immediately eliminate these concerns.

At least once every three (3) years, a section within each division's Self-Audit will include an administrative review of relevant policies governing these facilities and a determination concerning the facilities ability to adequately meet department needs.



**2187 Detention Cell Security**

The detention area shall be monitored either in person, or via department-authorized audio/video surveillance, for the entire time it is in use to allow for immediate response to an arrestee who is in distress or requires attention.

Detainees secured in temporary detention shall be secured to a stationary item expressly designed for secure detention purposes (e.g., a handcuff ring).

***If an arrestee cannot be secured to, or is temporarily released from, the handcuff ring (e.g., the arrestee is released to use the restroom), the department member shall remain in direct observation of the arrestee until they are secured to the handcuff ring, transported to the jail or prison, or released.***

***The responsible member shall ensure the welfare and security of the arrestee until release or transfer. The member shall conduct an in-person check of the arrestee's welfare at a minimum of fifteen (15) minute intervals.***

Members shall secure their firearms prior to entering a temporary detention cell or entering an area (pod) in which temporary detention cells are contained.

The officer responsible for the initial placement of a detainee into temporary detention shall thoroughly search both the detainee and the detention cell prior to placement within the cell, and the detention cell again after removal. The mere fact that another officer has already searched a detainee does not preclude further officers from conducting similar searches. Escape prevention is the responsibility of all members who have contact with detainees, thus only those personnel necessary to facilitate processing; searching and temporary detention of detainees will be authorized access to the detention cells.

As temporary detention cells are not equipped with panic alarms, members are reminded to utilize their handheld radios to call for emergency assistance as necessary.

While a subject is kept in a detention cell, the interior light of that room shall be on.

Any arrestee, whose conduct is so violent that the removal of the restraints would present a serious threat of harm to officers, or damage to the detention cell, will be transported immediately to the Pima County Jail or PCJCC as appropriate. Any arrestee who becomes violent while in a detention cell shall be restrained to prevent injury or damage, and promptly transferred to the Pima County Detention Center or PCJCC as appropriate.

Due to the presence of a variety of potentially unsecured weapons, prisoners shall not be permitted in any Department facility locker room. Prisoners who need to use a restroom will be escorted to a public restroom within the facility if one is not readily available to them.