



*Office Of The Sheriff*  
***Allegany County***  
***Maryland***

GENERAL ORDER NO: **1-000.00**

TO: All Patrol and Judicial Personnel

RE: **OFFICE OF THE SHERIFF OF ALLEGANY COUNTY,  
MARYLAND**

EFFECTIVE DATE: 2003

REVISION DATE: 3/1/2016

**1-001.00 Rules and Regulations of the Sheriff's Office**

**.01 Sheriff's Authority to Set Departmental Policy**

- A. By virtue of the authority vested in the Sheriff of Allegany County, Maryland, by the Annotated Code of Maryland, and Common Law Tradition, rules and regulations are established in this manual for the administration and discipline of sworn and civilian employees with the Office. The Sheriff of Allegany County reserves the rights to initiate, alter, amend, or repeal rules/regulations in whole or in part, as circumstances may require for the efficient operation of the Agency. Employees of the Sheriff's Office are held accountable for abiding by the rules and regulations issued in this manual. Failure to do so may result in disciplinary actions.

**.02 Scope of Agencies Rules and Regulations**

- A. The procedures and regulations enumerated within this Manual are for office use only and do not apply in any criminal or civil proceeding. Office policies will not be construed as creation of higher legal standards of safety and care in an evidentiary sense with respect to third party claims. Violations of the policies and procedures of the Allegany County Sheriff's Office will only form the basis for agency administrative sanctions, a higher level of training, and new policy guidelines. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

**1-002.00      Authority of the Sheriff of Allegany County and His Deputies**

.01      The Sheriff is the administrative head and commanding officer of the Allegany County Sheriff's Office. Authority is vested in the Office of Sheriff primarily from two sources:

- A.      English Common Law Usage: Under English Common Law, the Office of the Sheriff in England was responsible for several duties which included keeping the peace and enforcing laws of the times. The Maryland Constitution recognized and granted authority to the Office of Sheriff by stating in Article 5, of the Maryland Declaration of Rights, that Common Law would be applicable to the citizens of Maryland unless specifically altered by State Legislation. The Office of Sheriff was a powerful and important position in England. Framers of the Maryland State Constitution determined that English Common Law would be in effect for Maryland citizens unless altered by legislative action. Thus a bridge was created between the Common Law, and Codified Law in the New World. Through language in the State Constitution, the Office of Sheriff was recognized and carried over into the New World.
- B.      Legislative Action: Authority of the Office of Sheriff was further strengthened by Article 4, Section 44, of the Maryland Constitution, which codified the position of Sheriff as an elected official stating, "the Sheriff shall exercise such powers and perform such duties as now are, or may hereafter be fixed by law". Duties are further defined for the Office of Sheriff in Article 87 of the Annotated Code of Maryland, and in 2-301 of Courts and Judicial Proceedings.

.02      Sworn Enforcement Deputies

- A.      Sworn enforcement deputies of the Sheriff's Office will enforce and uphold laws duly passed by the legislative body of the State of Maryland, and the governing body of Allegany County. Laws will be enforced with due regard for individual rights protected by the Constitution of the United States and within the parameters of the Annotated Code of Maryland and Agency Policy. No arrest will be made without probable cause. Sworn members will exercise police authority on land, water, and air within the boundaries of Allegany County except:

1. While under suspension, deputies of this office will not wear agency uniforms, will be deprived of all police powers and privileges, and will not be permitted to represent themselves as a member of this office. Personnel will not be allowed to carry a firearm while on suspension and will surrender their badge, I.D., and issued firearm to the Shift Supervisor prior to the effective date of suspension. Individually assigned agency vehicles will be left at the Sheriff's Office during periods of suspension.

- B. In addition to having authority by virtue of the Constitutional Office of Sheriff, sworn deputies are given enforcement powers through legislative action. Laws within the State of Maryland are enforced through arrest and/or the issuance of citations or summons. Power to arrest is delegated to sworn deputies by way of Article 27, Section 594B, of the Annotated Code, along with 26-202 of the Transportation Article, which codifies police powers of arrest with and without arrest warrants, and then defines what constitutes a Policeman. Paragraph (g) states, "The term *Police Officer* means any person who, in his official capacity is authorized by law to make arrests and who is:

1. A regularly employed Deputy Sheriff of any county and who is compensated by the County and whose usual duties include the making of arrests".

.03 Power of Arrest

- A. Authority by Legislative Action

1. Article 27, Section 594A, along with 26-202 of the Transportation Code (Annotated Code of Maryland) codifies the law of arrest. Felony crimes (more serious) are distinguished from Misdemeanor crimes (less serious). Section 594B establishes when a police officer may arrest with and without an arrest warrant. Generally, an arrest on a Felony charge may be made with or without an arrest warrant if probable cause exists that the person committed the crime, while a warrant must be obtained for an arrest on a misdemeanor charge unless the act was committed in the presence of the officer. However, Section 594B specifies certain misdemeanor offenses for which a warrantless arrest may be made, even if the act was not committed in the presence of the officer.

2. For purposes of this order, if a felony crime has been committed and probable cause exists that a suspect committed the crime; a warrantless arrest will be made without delay, if at all possible. If the suspect cannot be immediately apprehended, an arrest warrant will be obtained without delay.
3. When a misdemeanor crime is committed and probable cause exists that a suspect has committed the crime, the investigating deputy has a certain amount of discretion in choosing how to proceed. Refer to the following section ".04" on Scope and Limits of Discretion.
4. Arrest by Warrant: Maryland cases of "*Hall v. Hall*", 6G and J, 386, and "*Lewin v Uzuber*", 65 MD 341, have set precedent that if a warrant is in due form and issued by a person having authority to issue it, the duty of the officer is to execute it, and the warrant will protect him.

.04 Scope and Limits of Discretion

- A. For purposes of this order, "Discretion" may be defined as "an individual freedom of choice or decision on how to conclude an investigation, regarding options of arrests, citations, summons, informal settlement, etc., making the decision based on sound, legal, prudent, and tactful judgment, and in accordance with this orders".
- B. A considerable amount of discretion with regards to making an arrest or not making the arrest is granted to sworn personnel in the performance of their duties. Discretion as to making an arrest is written into law in language codifying the power of arrest "A Police Officer **May** Arrest". Discretion gives a deputy latitude to resolve many situations as he/she deems appropriate, weighing the information at hand in their decision-making. Discretion allows the deputy, in many instances, and in accordance with this order, to:
  1. Resolve some relatively minor crimes in a way that is fair to all involved without incarcerations or formal charges whenever appropriate.
  2. Issue a warning for a traffic violation instead of a traffic citation.

3. File charges through a criminal summons instead of physical arrest and incarceration. File charges by way of a criminal citation for Petty Offenses (Maryland Rules 4-102 and 4-201).
  4. Refer the suspect to a Social Service type agency, which may be able to provide appropriate treatment in lieu of arrest. In appropriate misdemeanor crimes, the investigating deputy may initiate this action with agreement of victim. In crimes of a more serious nature, such actions on the part of the deputy would be coordinated through the State ' s Attorney ' s Office.
- C. In general, discretionary actions on the part of deputies as specified in "B" above will be limited to instances in which a misdemeanor offense has been committed. However, certain factors must be taken into consideration in making the decision to physically arrest or to take a different course of action:
1. Consideration must be given as to the magnitude of the crime. Suspects of serious misdemeanors; i.e., assaults, drug violations, crimes involving large amounts of property damage, crimes involving public safety, in general, should result in an arrest and incarceration as soon as possible, or issuance of a warrant, versus an action requiring no further legal action.
  2. Consideration must be given as to whether the crime was against property or person. Crimes of violence, (especially those in which injury occurs or deadly weapons are involved), should generally result in an arrest and incarceration if a suspect is identified, whereas a destruction of property might be settled informally.
  3. Consideration should be given to the suspect ' s criminal record, if any. A suspect with a lengthy prior record or a record of a "failure to appear" for court should be a likely candidate for arrest versus other options.

4. Consideration should be given to the suspect's place of residence while considering arrest or other options. Does the suspect live in Maryland and therefore accessible for summons service, or does he reside out of state and therefore, for practical purposes, out of reach of a warrant for a misdemeanor crime.
5. Personnel may make a warrantless arrest in accordance with Article 27, Section 594B, for specified misdemeanor crimes committed outside the deputy's presence when the deputy has good reason to believe that not to do so would result in injury or damage to property.

D. Traffic Violations

1. All traffic violations are misdemeanors. Section 26-202, of the Transportation Article gives authority and circumstances for warrantless arrest on traffic violations, and for release at the officer's discretion, without the suspect having to make a first appearance before a District Court Commissioner. If a person is held for appearance before a District Court Commissioner, they will be taken for the appearance without any unnecessary delay. Subjects arrested under 26-202, may be released upon the individual's signature of the citation indicating a promise to appear for court. Subjects arrested for driving while intoxicated under this section may only be released to a sober, responsible person. Personnel investigating a traffic accident with a fatality or serious enough injuries, with the likelihood of resulting in a fatality, will consult with a State's Attorney prior to charges being placed.
2. Personnel have a considerable amount of discretion when investigating traffic law violations as to writing a citation or a warning ticket. Personnel will issue citations, however, for the following violations when probable cause exists that the suspect has committed the offense.
  - a. Driving or attempting to drive while intoxicated, while under the influence of alcohol, or in violation of an alcohol restriction.
  - b. Driving or attempting to drive while under the influence of any drug, any combination of drugs, or any combination of drugs and alcohol or while under the influence of any controlled dangerous substance.

- c. Failure to stop, give information, or render reasonable assistance as required by 20-102 and 20-104 of the Transportation Code, in the event of an accident resulting in bodily injury to or death of any person.
  - d. Driving or attempting to drive a motor vehicle while the driver ' s license or privilege to drive is suspended or revoked.
  - e. Failure to stop or give information, as required by Section 20-103 through 20-105 in the event of an accident resulting in damage to a vehicle or other property.
- 3. In relatively minor traffic violations, deputies have discretion as to whether to issue a Motor Vehicle Citation, or a written warning. Warnings, however, will not be used as a mechanism to avoid issuing citations. Traffic violations, which result in significant property loss, injury, or potential injury due to the type of violation, should result in traffic citations being issued.
- E. Pre-Trial Release: Under the Transportation Article, deputies are given discretion as to whether or not to make an arrest, and discretion as to whether the subject will be held for appearance before a Court Commissioner, or released after being charged. In all other instances, subjects arrested and charged by agency personnel will be held by incarceration for an initial appearance before a District Court Commissioner, in accordance with Maryland Rule 4-216, to determine if bail is to be set, the amount, or if personal recognizance may be appropriate.

.05 Freedom from Unreasonable Searches

- A. The Fourth Amendment to the United States Constitution guarantees the right of citizens to be free from unreasonable searches and seizures. Since the framing of the Constitution, a body of case law has been built regarding the power of arrest in light of Constitutional freedoms. The following are basic freedom guarantees regarding an arrest with or without a warrant:
1. Arrest defined: Under Federal Jurisprudence an arrest has been defined as a situation in which an individual is not free to go (from law enforcement personnel) whether or not formal words of arrest are used. The 11th Circuit Federal Court in "United States v. Hastamorir" 1989, stated, "In determining when a person is arrested, we ask at what point, in view of all the circumstances surrounding the incident, a reasonable person would have believed he was not free to leave. Circumstances which indicate an arrest include: the blocking of an individual's path or the impeding of his progress; the display of weapons; the number of officers present and their demeanor; the length of the detention; and the extent to which the officers physically restrained the individual. This list is not inclusive."
  2. A legal arrest must be based upon probable cause that a crime has been committed. The U. S. Supreme Court in "Michigan v. DeFillippo", 1979, defined probable cause as "Facts and circumstances within the officer's knowledge that are sufficient to warrant a prudent person, or one of reasonable caution, in believing, considering known circumstances, that the suspect has committed, is committing, or is about to commit an offense."
  3. In "Higbee v. City of San Diego", 1990, the 9th Circuit Federal Court stated, "A police officer is permitted to arrest without a warrant if a misdemeanor or a felony is committed in the officer's presence."
  4. Arrests in suspect's home: As a general rule, an arrest warrant must be obtained before attempting to arrest a suspect in their home. In "United States v. Rosario", 1992, the 7th Circuit Federal Court stated, "A warrantless entry of a home for the purpose of making an arrest or conducting a search, ordinarily violates the Fourth Amendment. The Fourth Amendment's prohibition against unreasonable searches and seizures extends beyond the four walls of the home to protect the legitimate privacy expectations of the occupant of a hotel or motel."



5. However, exigent circumstances may dictate that a warrantless arrest within a residence legal. In "United States v. Ramos", 1991, the 11th Circuit Federal Court states, "Warrantless and non-consensual entry into a suspect's house to make a felony arrest is prohibited under the Fourth Amendment, unless probable cause and exigent circumstances exist. Probable cause to search exists where the facts lead a reasonably cautious person to believe that the search will uncover evidence of a crime. Exigent circumstances exist when the inevitable delay incident to obtaining a warrant must give way to an urgent need for immediate action. Factors other than Hot Pursuit may indicate exigent circumstances. Such factors include:
  - a. The gravity of the offense with which the suspect is to be charged.
  - b. A reasonable belief that the suspect is armed.
  - c. Probable cause to believe the suspect committed the crime.
  - d. Probable cause to believe that the suspect is on the premises being entered, and;
  - e. A likelihood that delays could cause the destruction of evidence or jeopardize the safety of the officers.

#### **1-003.00 Written Goals and Objectives**

- .01 In order to establish goals and objectives giving direction to agency activities, the following activities will be adhered to:
  - A. Each Shift Supervisor will submit to the Sheriff, a compilation of divisional yearly activities. The report will be submitted to the Sheriff no later than January 31st of each calendar year.
  - B. Each Shift Supervisor will submit to the Sheriff, if needed, a list of goals and objectives for the calendar year. Supervisors will establish realistic, achievable goals based on personnel input and performance levels from the previous year. Goals and objectives will be broken down into goals and objectives for different units within the division, if applicable. Goals and objectives will be in

conjunction with job descriptions, duties and responsibilities of personnel and units. After presentation of goals and objectives to the Sheriff, supervisors will ensure that each member of their division has access to the goals and objectives.

- C. Supervisors will routinely solicit suggestions from subordinates as to suggestions for realistic goals and methods for improving performance. Personnel who desire to have input concerning goals and objectives may do so by the following means:
  - 1. Suggestions may be given to shift supervisors for discussion at staff meetings.
  - 2. Suggestions may be addressed, via letter, to the Sheriff through the chain of command.
- D. A progress report will be forwarded to the Sheriff by Shift Supervisors, if needed, each calendar year. The report will indicate as to whether a level of performance has been attained that will culminate in the achievement of set goals and objectives for the year.

**1-004.00 Oath of Office and Code of Ethics**

- .01 Oath of Office: All law enforcement deputies of the Allegany County Sheriff's Office will take an "Oath of Office", (Attachment 1), prior to assuming sworn status. The oath will be administered by the office of the Clerk of the Circuit Court. After taking the oath of office, personnel will be held accountable for abiding by that oath.
- .02 All personnel of the Sheriff's Office will familiarize themselves with the attached "Code of Ethics", (Attachment 2), and conduct themselves in accordance with that code. While law enforcement officers are human beings and therefore subject to the frailties and shortcomings of humans, the public has the right to place high expectations on them regarding their professional and personal conduct. The inherent difficulty of the profession is multiplied if law enforcement officers do not pursue excellence in both their professional and personal lives.

By Order Of:

David A. Goad, Sheriff

**OATH OF OFFICE**  
**DEPUTY SHERIFF**  
**ALLEGANY COUNTY, MARYLAND**

I do swear (or affirm) that I will support the Constitution of the United States, and I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof, and that I will, to the best of my skill and judgement, diligently and faithfully, without partiality or prejudice, execute the office of DEPUTY SHERIFF according to the Constitution and Laws of this State and that I will not for lucre or malice delay any person applying to me for any business belonging to the office I officiate in, and that I will not directly or indirectly ask, take, exact, demand or receive from or charge to any such person to my own use any fee or reward whatsoever for any services I may do as deputy of the said office, and that in making out office fees I will not wittingly or willingly charge other or higher fees than those allowed by law.

(Article 1, Sec. 9-A, Maryland Constitution)

Attachment #1

**ALLEGANY COUNTY SHERIFF 'S OFFICE**

**CODE OF ETHICS**

As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional Rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint, and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my office. Whatever I see or hear of a confidential nature or that is confided in me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously, or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without favor, malice, or ill will, never employing unnecessary force or violence and never accepting gratuities offered with the expectation of special consideration.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held as long as I am true to the ethics of the law enforcement service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession.

Attachment #2