

	Hanover Borough Police Department Policy Manual	Date of Implementation: 10/8/2012
	Arrests	Review Date: 10/8/2013 Revised Date:

Standards: See also Operational Guideline 2006-10 Juveniles placed in Custody Procedures, 2011-01 Central Booking, 2012-01 DUI Charges and Arrests

I. PURPOSE

The purpose of this policy is to provide officers with basic guidelines for conducting arrests.

II. POLICY

It is the policy of this department that all arrests made by department personnel shall be conducted professionally and in accordance with established legal principles. In furtherance of this policy, all officers of this department are expected to be aware of, understand, and follow all laws governing arrests. This policy sets forth the basic fundamentals of the arrest procedure and is not all inclusive.

III. DEFINITIONS

Arrest: Taking a person into custody.

Arrest warrant: A written order issued by a judge, magistrate, or other proper authority that commands a law enforcement officer to place a person under arrest.

Probable cause for arrest: When facts and circumstances within an officer's knowledge are sufficient to warrant a prudent person, or one of reasonable caution to believe that the suspect has committed, is committing, or is about to commit an offense.

Investigative detention: Temporary detention for investigative purposes of a person based upon reasonable suspicion that the person has committed, is committing, or is about to commit a crime, under circumstances that do not amount to probable cause for arrest (also known as a *Terry* stop).

Reasonable suspicion: A particularized and objective basis, supported by specific and articulable facts, for suspecting a person of criminal activity; the degree of suspicion of criminal activity that justifies an investigative detention but not an arrest.

Mere encounter: A contact between a police officer and a citizen that may be initiated by the officer for any reason and during which the citizen is free to leave at any time.

Exigent circumstances: A situation in which a police officer must take immediate action to effectively make an arrest, search, or seizure for which probable cause exists, and thus may do so without first obtaining a warrant. Such emergency situations are those that "would cause a reasonable person to believe that entry (or relevant prompt action) was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of the suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.

Weapons display: Drawing a handgun or readying a firearm for quick use if needed without pointing it at a suspect.

IV. PROCEDURE

A. Basis for Arrest

Officers shall conduct arrests only when based upon either probable cause or an arrest warrant.

1. Probable Cause

a. Probable cause for arrest may be established by one of the following:

- (1) Observations of the officer
- (2) Information or evidence obtained during an investigative detention (*Terry* stop) or during a consensual citizen contact
- (3) An identified citizen's specific complaint
- (4) Information provided by a police informant of proven reliability
- (5) Information provided by other law enforcement sources

b. Officers shall not make any arrest based solely upon the following:

- (1) Information received from an anonymous source that cannot be validated in some manner of investigation
- (2) Mere suspicion, not amounting to probable cause

2. Arrest Warrants

- a. Except when a warrantless arrest is justified by the existence of probable cause, arrests shall be made under an arrest warrant.
- b. Arrest warrants shall be obtained from a judge or magistrate empowered to issue such warrants in this jurisdiction.
- c. Arrest warrants shall be in the form prescribed by the law of this jurisdiction and shall adequately identify the person to be arrested. The warrant shall also provide such other information as is required by law.
- d. Any officer to whom an arrest warrant is delivered shall examine it to ensure that it is in proper form, that all information required by law is provided, and that the warrant appears to be valid.
- e. Once received, an arrest warrant shall be executed without delay, except as otherwise may be required by the circumstances of the case.
- f. Arrest warrants not immediately served shall be placed on the Warrants Board in the briefing room and returned to the magistrate after 30-days. The affiant shall make every effort to serve the warrant and note actions taken in the incident report.

3. Wherever possible, arrests shall be planned in advance in consultation with a supervisor or other experienced officers.

4. Where advance planning and consultation are not possible, the arrest shall be made in accordance with the arresting officer's departmental training in arrest procedures.
 5. Arrests shall be made at a time and place and in a manner that will maximize the probability of a successful arrest and minimize the danger to officers and innocent bystanders.
 6. Whenever possible, arrests shall be made in a location where the arrest will not pose a threat to the safety of the public (e.g., not in crowded places where bystanders may be injured should the arrestee offer resistance, particularly resistance involving the use of firearms).
 7. No officer shall enter premises owned or occupied by a third person to make an arrest unless the officer has a separate legal basis for entering the premises. Such a basis may be provided by any of the following:
 - a. Possession by the officer of a search warrant for those premises
 - b. Consent of a person empowered by law to give such consent
 - c. Exigent circumstances
- B. Use or Show of Force During Arrest
1. Officers shall use only that level of force that they reasonably believe is necessary to make an arrest in accordance with this department's Use of Force Policy.
 2. Weapons shall be displayed during an arrest only where it is reasonably believed necessary to ensure the safety of the officers or others and the successful completion of the arrest.
- C. Informing/Mirandizing Arrestees
1. The arresting officers shall identify themselves, inform the suspect of his or her arrest, and specify the charges for which the arrest is being made. Officers not in uniform shall display their badges and credentials when making the arrest to ensure proper identification.
 2. Arrestees shall be advised of their *Miranda* rights before any questioning. Those rights should, whenever reasonably possible, be read verbatim from a standardized departmentally approved form.
 3. A waiver of the *Miranda* rights must be obtained before any questioning of an arrestee can begin. The waiver must be unambiguous, that is, clearly stated or conveyed to interrogating officers. Failure to make an explicit, affirmative invocation of these rights, by remaining silent or through other ambiguous means, does not constitute an invocation of *Miranda* rights.
 4. If the suspect waives *Miranda* rights, he or she should be requested to sign the departmental waiver form. Failure to sign will be noted on the form by the interrogating officer and does not, in itself, preclude officers from proceeding with an interrogation.
 5. If the arrestee has not waived his or her *Miranda* rights, no questioning shall be conducted beyond that necessary to accomplish the booking procedure (name, address, and so forth).
 6. If the arrestee declines to waive his or her *Miranda* right to counsel, or if the arrestee, after waiving that right, elects to reassert it, questioning must cease immediately and no further questioning may be conducted with

regard to the crime for which the arrest was made, for any other crime, or by any other law enforcement agency unless

- a. an attorney representing the arrestee is present during questioning,
- b. the arrestee voluntarily initiates a further interview.

7. If the arrestee has not waived his or her *Miranda* rights, officers in the presence of the arrestee shall refrain from engaging in conversation among themselves that is calculated to elicit incriminating statements or admissions.

D. Arrestee Requests

Following the arrest, officers shall not permit arrestees to leave the immediate area of the arrest for personal purposes (e.g., to get a coat). In exceptional cases where it is deemed necessary to grant the arrestee's request, the arrestee shall first be searched for weapons and then be accompanied and closely monitored by the arresting or other officers.

E. Safety Precautions

1. Officers shall approach every arrest situation with the knowledge that any arrest, regardless of the offense involved may present an element of danger. Therefore, officers making arrests shall take all reasonable precautions to ensure their own safety and the safety of others.
2. Restraint of the Arrestee
 - a. All arrested persons shall be handcuffed after being taken into custody unless some physical abnormality would prevent handcuffing. Department Operational Guideline 2006-10 governs the handcuffing of juveniles.
 - b. Other lawful forms of restraint may be used when necessary and reasonably available for the safety of officers, prisoners, and others to include a body belt, leg irons, thigh straps, spit hoods and others.
 - c. Arrestees shall not be restrained in the four-point restraint unless the arrestee is uncontrollable by other means readily available. A four-point restraint is defined as the hands and ankles bound behind an individual's back. If a four-point restraint is deemed necessary, the arrestee shall be placed on his or her side once bound and monitored for potential physical problems such as difficulty in breathing.
3. Search Incident to Arrest
 - a. Officers shall conduct a thorough search of the person arrested.
 - b. Any criminal evidence discovered during the search of the arrestee's person shall be seized.
 - c. The search incident to arrest shall include not only the person of the arrestee, but also areas within the reach and control of the arrestee.
 - d. Strip searches shall not be conducted in the field except under the most extreme circumstances and with prior approval from a supervisor. Any officer conducting a strip search of an arrestee in the field shall be prepared to justify the reasons for such a search and to document those reasons in a subsequent written report.

- e. Body cavity searches shall only be performed by medical personnel.
 - f. Whenever possible, searches incident to arrest shall be conducted by officers of the same gender as that of the person being searched.
4. Protective sweeps of the premises or area where the arrest occurs shall be performed to ensure that no other persons or weapons are present that may represent a danger to the officers or the arrestee.
 5. Post-Arrest Protection
 - a. Officers shall be aware that, following an arrest, they are legally responsible for the safety of the arrestee, any victims present, and all bystanders. Officers shall take all steps reasonably necessary to protect
 - (1) the officer and other officers from the arrestee,
 - (2) victims and third persons from the arrestee, and
 - (3) the arrestee from self-injury or injury by others.
 - b. Officers shall not allow victims into close proximity with the arrestee and shall prevent bystanders from approaching the arrestee until the arrestee is transported from the scene. In addition, officers shall not allow the arrestee out of their immediate presence for any reason until the arrestee is properly secured and transported.

F. Transportation of Arrestees

1. All arrestees shall be searched before being transported and whenever custody of the prisoner is transferred to another officer.
2. All arrestees shall be handcuffed or otherwise restrained during transportation, however exceptions may be made with the approval of a supervisor given unusual circumstances such as age, physical deformity, etc.
3. Before an arrestee is transported, the area of the transporting vehicle to be occupied by the arrestee shall be searched for articles, including articles that may have been left behind by previous arrestees that may present a hazard to the transporting officers.
4. Security devices in the transporting vehicle, such as door locks and security screens, shall be checked to be certain that they are operating properly. Arrestees should be transported in a vehicle having a protective cage barrier separating the individual from the front seat area.
5. Officers shall seat arrestees in the rear seat area of the patrol vehicle for transport.
6. All arrestees should be safely restrained with seatbelts.

G. Arrest of Juveniles

All officers shall be aware that the arrest, the transportation, and the booking of juveniles are subject to the Pennsylvania Juvenile Code and department guidelines. Officers shall be familiar with and observe these special requirements at all times when arresting juveniles.

1. Juveniles shall never be transported with an adult prisoner nor shall they be held in any area of the department where they can see or hear an adult

prisoner. Officers will follow the department's operational guideline on juveniles in custody

2. An interview or interrogation with a juvenile requires additional considerations:
 - a. Prior to interviewing a juvenile, officers will ensure that a parent, or an attorney, or a concerned adult is present that would protect the child's best interest
 - b. The juvenile and the parent, attorney, or concerned adult will be informed of the reason the juvenile is in custody and be given time alone to confer privately
 - c. The Miranda Warnings will be given to both the juvenile and the adult present who represents their best interest. They both must knowingly and intelligently waive the rights granted under Miranda prior to any questioning of the juvenile. Both should sign the department waiver form.

H. Citation in lieu of arrest

Officers shall issue citations in lieu of arrest in all situations where a citation is directed by law. In situations where a citation is discretionary, officers shall consider the following:

1. Whether the person, if cited and released, is likely to cause harm to himself or herself or any other person
2. Whether there are other factors that should be considered and are permitted by law and departmental policy

I. Investigative Detentions

1. Officers shall conduct an investigative detention based upon reasonable suspicion that the person detained has committed, is committing, or is about to commit a crime.
2. Officers shall not prolong the investigative detention beyond the period necessary to accomplish the purpose of the detention. Officers shall be aware that prolonging an investigative detention unnecessarily may cause a court to view the detention as an unlawful seizure if probable cause does not exist for an arrest.
3. Officers shall take precautionary measures for their own safety during an investigative detention, including display of firearms or handcuffing the detainee. Officers shall be aware that unnecessary or prolonged display of firearms, handcuffing, and so on during the investigative detention may cause a court to view the detention as an actual arrest.
4. Officers who reasonably believe that a person under investigative detention may pose a threat to their safety shall conduct a frisk or pat-down search of the detainee's clothing for weapons. Officers shall not conduct any further search of an investigative detainee unless and until it appears that there is probable cause for the arrest of the detainee.
5. If during the investigative detention, it becomes apparent that there is probable cause to believe that the detainee has committed a criminal offense, the detainee shall then be placed under arrest, and the procedures

for arrest set forth in this policy, including the procedures for a search incident to an arrest, shall then be followed by the arresting officers.

J. Release of Arrested or Cited Individual

1. Persons arrested whether on view or by an arrest warrant shall be taken for an arraignment on the charges before a judicial authority within a reasonable time period.
2. A person may be released and charges filed for criminal offenses constituting a misdemeanor of the second degree or less in grading
3. Any person who is under the influence of intoxicants shall be released to a responsible person who will acknowledge their duty to care for the individual. If no person can be found that is willing to take care of the individual, the arrested or cited person will be taken before the magistrate or Central Booking.

THE BOROUGH OF HANOVER
44 FREDERICK STREET
HANOVER, PENNA. 17331
717-637-3877 FAX 717-637-2805
AN EQUAL OPPORTUNITY BOROUGH

October 5, 2018

Ms. Amy Chin-Arroyo
Mr. Arik Davidson
Ms. Solena Laigle
Sheller Center for Social Justice
Temple University Beasley School of Law

Email: TempleShellerCenter2018@gmail.com

RE: Right to Know Request received 10-1-18:

“1. Any department policy, directive, order, training materials, or other document regarding the: a. requesting, recording, investigating, or reporting of any individual’s immigration status, national origin, or place of birth; b. contacting, stopping, detaining, arresting, or interrogating an individual to verify their identification or driver’s license; or c. the use and acceptance of foreign identification. 2. Any policy, directive, order, training materials, or other document that relates to your department’s contact or referral/sharing information with US Immigration and Customs Enforcement (ICE) about an individual’s immigration status, national origin, or place of birth. This request includes any documents that reflect providing ICE access to the department’s databases. 3. Any documents that reflect communication between your department and ICE from 2015 to the present. This request includes communications related to: a. sharing information (e.g., incident reports, booking or database information); b. collaborating by assisting in roving patrols, the apprehension of suspects, or the creation or implementation of vehicle checkpoints; c. the 287(g) program; d. providing back-up for ICE enforcement activities; or e. providing office space for ICE representatives to use.”

Dear Ms. Chin-Arroyo, Mr. Davidson and Ms. Laigle,

The request for 1. Any department policy, directive, order, training materials, or other document regarding the: b. contacting, stopping, detaining, arresting, or interrogating an

individual to verify their identification or driver's license is granted with the release of the police department's "arrest" policy, attached.

With regards to the rest of the requested information, the records do not exist within The Borough of Hanover Police Department and this agency is under no obligation to create a record to satisfy the request as stated in the Act under Section 705, Creation of Record: *"When responding to a request for access, an agency shall not be required to create a record which does not currently exist or to compile, maintain, format, or organize a record in a manner in which the agency does not currently compile, maintain, format, or organize the record."*

You have a right to appeal this denial of information in writing to:

Office of Open Records
Commonwealth Keystone Building
400 North Street – 4th Floor
Harrisburg, PA 17120

If you choose to file an appeal you must do so within 15 business days of the mailing date of the agency's response. Section 1101. Please note that a copy of your original Right-to-Know request and this denial letter must be included when filing an appeal. The law also requires that you state the reasons why the record is a public record and address the reasons the Agency denies your request. Visit the Office of Open Records website at <http://openrecords.state.pa.us> for further information on filing an appeal. If you have further questions, please call me at (717) 637-3877. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Thank you for your request.

Sincerely,



Dorothy C. Neiderer
Borough Secretary &
Right to Know Officer

cc: Police Chief Martin



pennsylvania

OFFICE OF OPEN RECORDS

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED: 10/01/2018

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

REQUEST SUBMITTED TO (Agency name & address): Hanover Borough - Police Department

Dorothy Neiderer, Hanover Borough, via electronic mail: dneiderer@hanoverboroughpa.gov

NAME OF REQUESTER : Amy Chin-Arroyo, Arik Davidson, Solena Laigle
Sheller Center for Social Justice, Temple University Beasley School of Law

STREET ADDRESS: 1719 North Broad Street

CITY/STATE/COUNTY/ZIP(Required): Philadelphia, PA 19122

TELEPHONE (Optional): 215-204-8800 EMAIL (optional): TempleShellerCenter2018@gmail.com

RECORDS REQUESTED: **Provide as much specific detail as possible so the agency can identify the information. Please use additional sheets if necessary*

See attached.

We respectfully request that any fees be waived in the interest of promoting pro bono and academic research, pursuant to 65 P.S. § 67.1307(f)(2).

DO YOU WANT COPIES? YES NO Electronic copies if possible.

DO YOU WANT TO INSPECT THE RECORDS? YES NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES NO

DO YOU WANT TO BE NOTIFIED IN ADVANCE IF THE COST EXCEEDS \$100? YES NO

**** PLEASE NOTE: RETAIN A COPY OF THIS REQUEST FOR YOUR FILES ****
**** IT IS A REQUIRED DOCUMENT IF YOU WOULD NEED TO FILE AN APPEAL ****

FOR AGENCY USE ONLY

OPEN-RECORDS OFFICER: D. Neiderer

I have provided notice to appropriate third parties and given them an opportunity to object to this request

DATE RECEIVED BY THE AGENCY: 10-1-18

AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE: 10-8-18

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

Right to Know Request

Sheller Center for Social Justice, Temple University Beasley School of Law

10/01/2018

1. Any department policy, directive, order, training materials, or other document regarding the:
 - a. requesting, recording, investigating, or reporting of any individual's immigration status, national origin, or place of birth;
 - b. contacting, stopping, detaining, arresting, or interrogating an individual to verify their identification or driver's license; or
 - c. the use and acceptance of foreign identification.

2. Any policy, directive, order, training materials, or other document that relates to your department's contact or referral/sharing information with US Immigration and Customs Enforcement (ICE) about an individual's immigration status, national origin, or place of birth. This request includes any documents that reflect providing ICE access to the department's databases.

3. Any documents that reflect communication between your department and ICE from 2015 to the present. This request includes communications related to:
 - a. sharing information (e.g., incident reports, booking or database information);
 - b. collaborating by assisting in roving patrols, the apprehension of suspects, or the creation or implementation of vehicle checkpoints;
 - c. the 287(g) program;
 - d. providing back-up for ICE enforcement activities; or
 - e. providing office space for ICE representatives to use.