



# Peoria Police Department Policy and Procedure Manual

Policy 4.23

Arrest Procedures



## I. POLICY

- A. It is the policy of the Peoria Police Department to ensure that its officers carry out their duties regarding arrest procedures in a manner that is consistent with the laws of the State of Arizona, U.S. Constitutional guarantees, and Ordinances of the City of Peoria. It is also the procedure of the Peoria Police Department to report all arrests, regardless of type, on an original Incident Report (IR) or on a supplement to the original IR.
- B. When making an arrest or detention of a person, employees shall strictly observe the laws of arrests as set forth in the Arizona Revised Statutes (ARS), applicable court decisions, federal laws and local ordinance. It is the employee's responsibility to be aware of and comply with any changes in the law or requirement of new court decisions.

## II. ESSENTIAL ELEMENTS OF ARREST

- A. Intent on the part of the person making the arrest.
- B. Lawful authority on the part of the person making the arrest.
- C. Seizure or detention of the arrestee.
- D. Understanding on the part of arrestee that they have been arrested.

## III. ARREST PROCEDURES:

- A. Employees may use only the restraint necessary to assure the safety of employees, citizens and the arrested subject.
- B. All circumstances of the use of restraints shall be documented in an incident report. For a standard arrest, this may just be a sentence stating the individual was arrested and handcuffed.
- C. When handcuffs are applied, Peoria Police Department policy as outlined in 7.01.D.6 will be followed.
- D. Advise the arrested subject of the reason for the arrest as soon as practical.
- E. Immediately after the subject has been handcuffed and is secure, conduct a thorough "pat-down" of the subject for weapons.
- F. Conduct a search of the subject for weapons and/or contraband as soon as reasonable after the arrest and always prior to being transported.
- G. Conducting additional searches when the subject is moved from one vehicle to another and when being removed from a holding cell.
- H. Conduct a thorough search of the vehicle after the subject is removed.
- I. In all cases, an Incident Report shall be completed detailing the circumstances of the arrest or the justification for the application of handcuffs/restraints if the person is released and not charged.

## IV. TYPES OF ARREST - There are two basic types of arrest: arrest with a warrant and arrest without a warrant based on probable cause. (1.2.5) (74.3.1)

- A. Arrest by Warrant: Under Arizona Revised Statute (ARS) § 13-3887, an officer may arrest any person based upon a valid misdemeanor or felony warrant. It is the responsibility of the officer executing the warrant to determine that:

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1. The suspect is the one for whom the warrant was issued confirmed by the Date of Birth (DOB), social security number (SSN), physical description, fingerprint, photograph, or other means of positive identification.
2. Only sworn officers shall affect a physical arrest during the execution of an arrest warrant. (74.3.2)
3. The requisites for a valid warrant are:
  - a. It is issued in the name of the "State of Arizona."
  - b. It must specify the name of the person whose arrest is ordered, if it be known. If unknown, then some reasonably definite description must be given of the person.
  - c. It must state that the person is accused of some offense against the laws of the State of Arizona, naming the offense.
  - d. It must be signed by a magistrate or judge, and his office must be named in the body of the warrant, or in connection with his signature.
4. No arrest shall be made on a warrant until the warrant has been confirmed.
  - a. On warrants from the Peoria Police Department, the officer shall confirm with Communications that the warrant is still valid. Communications shall check the warrant files.
    - (1) The warrant files contain the physical hard copies of active warrants. Communications must have the actual warrant in hand to confirm it.
    - (2) If the subject is arrested and booked by another agency on a misdemeanor warrant issued out of the Peoria Municipal Court:
      - (a) Communications will annotate the arrest/booking information on the warrant jacket and within the CAD file.
      - (b) The original warrant will be forwarded directly to the Peoria Municipal Court for processing purposes.
  - b. Warrants from other agencies shall be considered valid upon confirmation from Communications. (Refer to Policy #8.02, Records Management, for complete information on warrant confirmation.)
  - c. It is the responsibility of the agency originating the warrant to ensure that their warrant is removed from the Arizona Crime Information Center (ACIC)/National Crime Information Center (NCIC) when an arrest on their warrant is made by one of our officers.
  - d. Communications will contact the originating agency (by teletype when possible) and advise them that an arrest has been made on their warrant by the Peoria Police Department.
  - e. During each warrant service attempt/execution, Communications personnel will recall the computerized warrant record and annotate the following information within the narrative of the record:
    - (1) Date and time service was executed/ attempted. (74.1.2.a)
    - (2) Name of officer(s) executing / attempting service. (74.1.2.b)
    - (3) Name of person on whom the warrant was served. (74.1.2.c)
    - (4) Method of service/reason for non-service. (74.1.2.d)
    - (5) Address of service attempt. (74.1.2.e)
  - f. All subsequent service attempts will be annotated in the narrative of the applicable record.

- g. If it is necessary to establish identity before a person is booked into jail on a warrant, a fingerprint check will be made using the Peoria Police Department's Automated Fingerprint Identification System (AFIS) workstation. A check for a photograph will be made using the Peoria Police Department's Mug Photo Interface (MPI) system.
  - h. Officers will not enter a private residence in pursuit of individuals with misdemeanor warrants.
5. Arrest by Juvenile Warrant - Communications personnel will verify juvenile warrants by contacting both the Juvenile Court Center (JCC) and Central Index. (74.1.2)
- a. Officers shall follow the same procedure when serving a juvenile felony warrant as outlined in 1.c.; with the exception of detention.
  - b. Juvenile warrants are only valid until the age of 18 years.
  - c. A juvenile arrested on a felony warrant will be detained at JCC unless a Remand Order has been issued.
  - d. If a Remand Order has been issued, the juvenile will be booked into the Maricopa County Jail as an adult.
- B. Arrest Without a Warrant: Officers may arrest without a warrant under the following conditions: (1.2.5)
- 1. A peace officer may, without a warrant, arrest a person if he has probable cause to believe that:
    - a. A felony has been committed and probable cause to believe the person to be arrested has committed the felony.
    - b. A misdemeanor has been committed in his presence and there is probable cause to believe the person to be arrested has committed the offense.
    - c. The person to be arrested has been involved in a traffic accident and violated any criminal section of Title 28 of the Arizona Revised Statutes, and that such violation occurred prior to or immediately following the traffic accident.
    - d. A misdemeanor has been committed and there is probable cause to believe the person to be arrested has committed the offense. If a person is arrested under these circumstances, they are eligible for release under ARS § 13-3903. Domestic violence is the only misdemeanor offense that is exempt from the provisions of ARS § 13-3903.
    - e. Physical arrests will not be made for petty offenses.
  - 2. A peace officer may stop and detain a person to investigate an actual or suspected violation of any traffic law committed in the officer's presence and may serve a copy of the traffic complaint for any alleged civil or criminal traffic violation. A peace officer who serves a copy of the traffic complaint shall do so within a reasonable time after the alleged criminal or civil traffic violation. (1.2.3), (1.2.6)
  - 3. If justified, or identity has not been met in accordance with ARS § 13-3899, or the arresting/citing officer has reasonable suspicion to believe that the true identity has not been established, the issuing officer shall establish the true identity through the use of the Peoria Police Department's AFIS workstation and/or the MPI system. (1.2.3), (1.2.6)
  - 4. Officers shall not forcibly enter private residences in pursuit of misdemeanor suspects when no warrant exists.

## V. OTHER ARREST

### A. Citizen's Arrest (1.2.5)

- 1. Before accepting a prisoner arrested by a private citizen, the officer will ensure that the following elements of arrest are present:
  - a. The prisoner is in custody of the citizen (either by actual physical restraint or the prisoner's voluntary submission to the arrest).
  - b. The citizen making the arrest intends to prosecute.

- c. The citizen making the arrest has informed the person to be arrested of the intention to arrest and the cause of the arrest.
    - d. The citizen arrest is apparently lawful. The criminal act was committed in the citizen's presence, and all elements of the crime are present.
  2. When the suspect is to be incarcerated, the investigating officers will print their names and serial numbers on the Arrest/Booking Record. The name and address of the arresting citizen will be listed in the IR. Arresting citizens will be advised that they may be required to sign complaints; however, they will receive a subpoena to testify in court if the charge is contested by the suspect.
- B. Complaint and Summons In Lieu of Arrest (1.2.6). If a citizen does not desire to make a citizen arrest or is unable to make a citizen arrest but desires prosecution, an IR will be completed. Officers will inform the citizen that the report of the offense will be forwarded to the appropriate Prosecutor for review.
- C. Fugitive of Justice (FOJ) ARS § 13-3862
  1. A fugitive is any person wanted by any law enforcement agency outside the State of Arizona on a verified Felony warrant.
  2. Warrants for Arrest from a Law Enforcement Agency - A warrant for the arrest of a wanted subject will be honored if received from a law enforcement agency, correction agency, or other public authority with powers of prosecution and extradition.
    - a. Confirmation of the warrant shall include verification that extradition has been authorized prior to conducting a physical arrest.
    - b. Warrants should contain the following information, regardless of how they are received:
      - (1) Warrant number, date of warrant, judge, and issuing agency.
      - (2) Charges.
      - (3) Subject's full name.
      - (4) Subject's date of birth.
      - (5) Physical description.
      - (6) Date, time, and name of officer authorizing the hold.
      - (7) Bond amount, if any, and Court address.
      - (8) Recommended bond, if any.
      - (9) Statement that the demanding agency will extradite.
      - (10) County and State where the warrant was issued.
    - c. Letters requesting arrests from other agencies will be honored if accompanied by copies of the complaint and warrant, a statement that extradition has been authorized, and that the warrant has been entered into NCIC. Warrants by telephone usually will not be honored except in unusual or emergency cases. The issuing agency will be asked to FAX the required warrant and extradition information immediately following the telephone call and give an explanation as to why this warrant could not have been entered into NCIC. Under these circumstances, a sworn supervisor must authorize the arrest before it can be made.
    - d. The arresting officer will determine that the person about to be arrested is the person named on the demanding agency's warrant and will advise the defendant of the charge, the agency that has requested the arrest, the fact that a warrant has been issued, and the amount of any bail.

- e. The suspect will be booked as a "Fugitive from Justice", per ARS § 13-3862. A Fugitive from Justice Booking Release Form 4A required by the Maricopa County Sheriff's Office (MCSO) will be completed by the arresting officer.
  - f. Desertion Warrants will be handled in the same manner as a Fugitive from Justice.
- D. NCIC Arrests – When a fugitive suspect is detained based on information received through ACIC/NCIC, the following procedure will be used:
- 1. The arresting officer will advise Communications to confirm the warrant and if extradition is authorized.
  - 2. Communications will check the Peoria Police Department's Computer Aided Dispatch (CAD)/Crimes History for any specialized information on this subject, i.e. the warrant is not honored as extraditable, etc.
    - a. If the warrant is no longer valid, the suspect will be released if there are no other charges.
    - b. If the warrant is valid, but extradition is denied, the suspect will be released if there are no other charges. The officer will request the Communications personnel to make a notation in the Peoria Police Department's CAD/Crimes system that extradition has been denied.
    - c. If the warrant is valid, but the issuing agency is unable to immediately confirm extradition (County Attorney not available, Records Section closed, etc.) the suspect will not be booked. However, photographs and fingerprints will be obtained and the persons address and place of employment confirmed. Immediately after contacting the issuing agency, a Communications Section Supervisor will be contacted and informed of the disposition of the wanted person so entry can be made into the ACIC/NCIC System.
- E. Fugitive Incident Report: A Fugitive from Justice (FOJ) IR will be made. The fugitive will be booked as a "Fugitive From Justice" per ARS § 13-3842.
- F. Foreign Fugitives: Information on subjects wanted by foreign countries is available in NCIC. Special inquiries into this file are not required, as all wanted person file inquiries will be searched against the Foreign Fugitive File. If a positive response is received, the following procedure will be used:
- 1. The subject will be taken to the Peoria Police Department for follow up investigation and a supervisor notified.
  - 2. INTERPOL will be contacted and advised of the situation. INTERPOL will confirm or deny the warrant and attempt to estimate how long it will take to verify extradition.
    - a. If INTERPOL confirms the warrant and there are no other charges, the subject will be booked into MCSO with a "hold" for INTERPOL.
    - b. If INTERPOL cannot confirm the warrant, the subject will be released unless there are other charges, and an Incident Report will be prepared for entry into the CRIMES System.
    - c. If the subject is not a United States citizen, the Immigration and Naturalization Service (INS) will also be contacted to determine if an immigration violation exists.
      - (1) If so, the subject will be booked into MCSO with a "hold" for Immigration.
      - (2) If no immigration violation exists, the subject will be released unless there are other charges, and an Incident Report will be prepared for entry into the CRIMES System.
    - d. Holds may be placed for both INTERPOL and INS. Immediately after contacting the issuing agency, the Communications Section will be contacted and informed of the disposition of the wanted person so entry can be made into the ACIC/NCIC System.
- G. Consular Notification & Access for Foreign Nationals (61.1.3.d.): Whenever a foreign national is arrested in the United States, when a government official becomes aware of the death of a foreign national, or when guardianship or trusteeship is

being considered with respect to a foreign national who is a minor or incompetent, there are legal requirements to ensure that the foreign national's government can offer him/her appropriate consular assistance.

1. It is the responsibility of the arresting officer to determine whether consular notification is at the option of the foreign national or whether it is mandatory.
2. It is the responsibility of each officer, without delay, to notify the foreign national's consular officials when required by following the guidelines listed in this policy and by referring to the Consular Notification and Access Reference Card provided to every sworn employee.

#### H. Arrest of a Foreign National

1. Determine the foreign national's country. In the absence of other information, assume this is the country whose passport or other travel documents the foreign national travels under.
2. If the foreign national's country is not on the mandatory notification listed on the reference card, offer without delay, to notify the foreign national's consular officials of the arrest.
3. If the foreign national asks that the consular notification be given, notify the nearest consular officials of the foreign national's arrest without delay.
4. If the foreign national's country is on the list of mandatory notification countries, listed on the quick reference card, notify the country's nearest consular officials, without delay, of the arrest and charges the foreign national was booked under. Advise the foreign national that you are making this notification.
5. The notification will be made by facsimile, the fax form (Peoria Police Department Form #102-068), will be located in the forms room. The form must be completely filled out to include the charges the foreign national was booked under. The telephone and fax numbers for the foreign embassies and consulates in the United States are contained within the Consular Notification and Access manual retained in Communications.
6. Officers are required to document in their Incident Report that they made consular notification either because it was required or that it was requested on the part of the arrested suspect. If notification was not mandatory, the officer must document in the Incident Report that the arrested suspect was offered the opportunity to have his/her consulate notified of the arrest.
7. A copy of the facsimile sent to the consular officials must accompany the Incident Report. Under no circumstances should any information indicating that a foreign national may have applied for asylum in the United States or elsewhere be disclosed to that person's government.

I. Non-Support: Warrants charging non-support from other states will be handled in the same manner as other out-of-state warrants.

J. Felony/Misdemeanor Warrants for other jurisdictions in Arizona: Any person arrested for a Felony/Misdemeanor warrant issued by an Arizona law enforcement agency will be handled in the same manner as a Felony Warrant FOJ. The subject arrested on an outside agency warrant will be processed by the use of the Integrated Live Scan (ILS) Scanner and MPI System. Peoria arrest numbers will not be assigned, but the IR number will be utilized in place of the Peoria Police Department arrest number. (1.2.5)

1. The arresting officer will complete a Warrant Incident Report.
2. Immediately after contacting the issuing agency, the Communications Section will be contacted and informed of the disposition of the wanted person so entry can be made into the ACIC/NCIC System

#### K. Class 6 Felonies Designated as Misdemeanors

1. In any case in which a person is arrested for a Class 6 Felony that the Maricopa County Attorney's Office does not retain jurisdiction pursuant to current charging guidelines (See the attached Maricopa County Attorney's Office Prosecution Policies and Procedures) the officer shall complete a City of Peoria Complaint Submittal Form, yellow in color, and include with the IR. The forms will be located in the processing area and report writing room. Records

personnel will forward the submittal form to the City Prosecutor's Office. If the suspect is booked on other charges or the report is submitted as pending for other charges then follow current procedures.

2. If the arrested person is to be booked on these charges because of a lack of permanent address, identification concerns, an extensive criminal history or other aggravating circumstances, then the suspect will be booked on the felony charge(s). The Maricopa County Attorney's Office will then determine if the charges are to be turned down and submitted to the City of Peoria Municipal Court for prosecution.
  3. The officer will check the Cleared by Arrest/Submittal box on the report face sheet.
  4. The final disposition of the investigation will be as follows to include the officer's consequential action:
    - a. The officer receives a copy of the Complaint and completes a supplemental report.
    - b. The officer receives a "Further Information" request. If the request requires minimal action then the officer will accomplish the request. However, if extensive or exceptional further investigation is required then the report will be forwarded to the Criminal Investigations Bureau (CIB) by the officer's supervisor for review and assignment. The officer shall complete a supplemental report changing the status of the report to pending.
    - c. The officer receives a "Turndown" and then completes a supplemental report exceptionally clearing the case. Additionally, the officer will notify the victim of the prosecutorial decision.
- L. Arrests in Outside Jurisdictions: Peoria Police Officers must have their immediate supervisor's permission before leaving Peoria city limits to make a probable cause or warrant arrest. Officers must also notify the jurisdiction in which the arrest is to be made and request a local uniformed officer be present for arrests involving potentially violent subjects, unless exigent circumstances exist.
- M. Arrest of Federal and State Employees: With the exception of those persons immune from arrest, the following special notifications will be made when certain federal or state employees are arrested and booked (1.2.5):
1. Employers will be notified when any Public Safety personnel are arrested.
  2. Military Personnel - When military personnel are arrested and booked, the arresting officer will notify the appropriate military personnel.
    - a. Members of the military services of the United States cannot legally be held for being absent without leave (AWOL) or desertion until verification of their status has been confirmed by military authorities.
    - b. Military "holds" will not be placed on military personnel arrested by officers of the Peoria Police Department.
- N. Arrest of City of Peoria Employees: Whenever a City of Peoria employee is arrested, the officer shall notify their supervisor and advise them of the circumstances. (1.2.5). Whenever a person employed by the City of Peoria is arrested or cited for any crime or major criminal traffic offense, the arresting officer will write a memorandum listing the employee's supervisor, department, location, and telephone extension. The memorandum will be submitted through channels to the Police Chief's Office, along with a photocopy of the related paperwork (IR).
- O. Arrests of a Defendant in a Foreign County Requiring Extradition:
1. Usually, the state has no more than 48 hours from the time the defendant was arrested to obtain a provisional arrest warrant, which is necessary to hold a defendant in custody while extradition takes place.
  2. In order to facilitate this process, as soon as information is received from any source that a defendant has been arrested in a foreign country, notify the Maricopa County Attorney's Office extraditions attorney at (602) 506-7422.
- P. Paperwork to be processed for an arrest (82.2.2.e). All persons shall be booked at the Jail in which they will be held. The following forms shall be completed in the arrest process:
1. Arrest/Booking Record: Officers or PSO's who are assigned to process persons that have been arrested and brought to the police facility on charges from this agency or Peoria City warrants shall:

- a. Complete the MCSO Booking Procedures.
  - b. Utilize the ILS Scanner and the MPI System. Officers will request a Peoria Police Department ILS operator to assist them with this process. If the ILS Scanner is out of service, a ten-print card and a Polaroid photograph will be taken of the arrested individual. Both the Polaroid and the ten-print card containing the information on the suspect, the arrest number, and IR number will be placed in the Crime Scene Technician's mailbox.
  - c. If the person has been processed with the use of the ILS Scanner and the MPI, an "AFIS DONE" stamp will be placed on all four parts of the booking sheet.
2. Release Questionnaire (Form 4): A County form which indicates information regarding the offense. This form is for the prisoner's file and accompanies him/her to court.
  3. Victim Information Form: The "Custodial Copy" of the Victim Right's/Waiver Form is used to record data on the victim so they can be notified upon the subject's release. This form is placed in the prisoner's file and accompanies him/her to court.
  4. Form 4A: A single sided County form to be filled out for fugitive arrests. This form is for the prisoner's file and accompanies him/her to court.
  5. Inmate Property Inventory: A two-part County form used to record the subject's property. One part of this form is retained in the prisoner's file the other copy is given to the prisoner.

Q. Alternatives to Arrest (1.2.6) (74.3.1)

1. If a person is arrested for a misdemeanor, the arresting officer may release the arrested individual from custody in lieu of taking them to the police facility by use of the procedure prescribed in this section. It is the arresting officer's responsibility to verify the identity of the suspect. If the identity cannot clearly be established, the person to be cited and released will be brought to the station for processing.
  - a. In accordance with ARS § 13-3601.A.B.C.D. and E., the release procedures in ARS § 13-3903 do not apply to arrests for domestic violence offenses.
  - b. All arrests for misdemeanor Driving Under the Influence (DUI) cases will be processed for fingerprints, palm prints and photographs prior to their release.
  - c. If the subject is severely intoxicated and disruptive, the officer should make every effort to either make contact with a friend or relative of the subject to provide a safe mode of transport, or arrange for a taxicab to take them home, or arrange transportation to an appropriate detox facility.
  - d. If none of these options are available, the officer should offer to transport the subject if the distance to his place of residence is considered reasonable by their supervisor.
2. After transporting a person arrested for a misdemeanor to the police facility, the arresting officer may release the individual in lieu of taking him before a court by use of the procedure prescribed in this section.
3. If a person is arrested for a misdemeanor, the arresting officer may prepare a written approved Traffic Ticket and Complaint containing the name and address of the individual arrested, the offense charged, the time when and the place where the individual shall appear in court. Additionally:
  - a. The time specified in the notice to appear is 10 to 14 days after the arrest.
  - b. The place specified in the notice shall be the nearest or most accessible court in the county in which the arrest occurred. Misdemeanor offenses shall be cited into the Peoria Municipal Court. Offenses occurring outside the City of Peoria shall be cited to the appropriate court.
  - c. In order to secure this type of release, the arrested individual must give written promise to appear in court by signing at least one copy of the approved Traffic Ticket and Complaint prepared by the arresting officer. The

- officer shall then deliver a copy of the approved Traffic Ticket and Complaint to the person promising to appear and release them from custody.
- d. If the individual arrested refuses to sign the approved Traffic Ticket and Complaint, a supervisor will be notified. If the arrested individual continues to refuse to sign the approved Traffic Ticket and Complaint they shall be booked.
  - e. As soon as practical, the officer shall deliver the original notice to appear/complaint to the specified court. The court shall promptly file the notice and complaint and enter it into the docket of the court.
4. The approved Traffic Ticket and Complaint may be utilized not only for the purposes provided in the Arizona Supreme Court rule, but to satisfy the requirements of this section.
- a. Individuals who have given written promise to appear in court on a designated date and fail to appear on or before that date (either personally or by counsel), shall be cause to file a complaint in writing, under oath, setting forth the offense of willfully violating a written promise to appear. The individual failing to appear may be guilty of a class 2 misdemeanor, regardless of the disposition of the charge for the original arrest. The court shall issue a warrant of arrest. Upon the person's appearance in court for arraignment on the charge of a violation of a promise to appear, they shall also arraign the person for the original charge on the notice to appear/complaint.
  - b. None of the preceding shall be construed to affect a peace officer's authority to conduct an otherwise lawful search incident to arrest, even though the person is released prior to being taken to the police facility or court.
5. When the only charges to be filed are for Possession of Drug Paraphernalia, officers shall complete a City of Peoria Complaint Submittal Form, yellow in color, and include it with the incident report. The forms will be located in the Prisoner Processing Area and Report Writing Room. The Records Section will forward the submittal form to the City Prosecutor's Office. The submittal form will replace the approved Traffic Ticket and Complaint. If booking on other charges, or submitting the report as pending for other charges, current procedures, as outlined in this section, will be followed.
6. Misdemeanor-Straight Files
- a. If officers have concluded an investigation and probable cause exists for an arrest; however, circumstances exist that preclude an arrest, then officers shall complete a City of Peoria Complaint Submittal Form, yellow in color, and include with the IR. The forms will be located in the processing area and report writing room. Records personnel will forward the submittal form to the City Prosecutor's Office. If booking on other charges or submitting the report as pending for other charges, then follow current procedures.
  - b. \*These offenses are to include Domestic Violence and Class 6 Felonies designated as Class 1 Misdemeanors.
  - c. The final disposition of the investigation will be as follows to include the officer's and Records Management Section's consequential action:
    - (1) The Peoria Police Department's Records Management Section receives a copy of the Complaint for scanning and filing purposes.
    - (2) The officer receives a "Further Information" request. If the request requires minimal action then the officer will accomplish the request. However, if extensive or exceptional further investigation is required then the report will be forwarded to CIB by the officer's supervisor for review and assignment. The officer shall complete a supplemental report changing the status of the report to pending.
    - (3) The Peoria Police Department's Records Management Section receives a "Turndown" for scanning and filing purposes.

## **VI. Immunity from Arrest**

- A. Legislators (61.1.3.c) (74.3.1): Legislators are immune from arrest and are not subject to any civil process, including civil traffic citations, while the Legislature is in session, for 15 days prior to the start of the session, and while traveling from their residences to attend a session or returning home from a session.

1. This immunity does not apply in cases of treason, felonies, or misdemeanors amounting to a breach of the peace.
2. Officers will make arrests for misdemeanors only in cases of an offense by violence, an immediate disturbance of the public order (i.e., assault), or for driving a motor vehicle while under the influence of an intoxicating liquor.
3. The interpretation of a breach of peace and the decision to arrest will be referred to a supervisor in all cases.

**B. Foreign Consuls (61.1.3.d)**

1. Foreign Consuls, their families, servants and employees are NOT immune from arrest, except as follows:
  - a. The Mexican Consul is immune from arrest for misdemeanor offenses but Deputy Consuls are immune only if they are citizens of Mexico.
  - b. The courtesy of immunity is not extended to the families, servants, or employees of the Consulate; however, they will be released on a misdemeanor offense in lieu of booking, pending the issuance of a complaint for the offense.
  - c. Vehicles bearing any Consular Corps license plates will not be given parking citations nor will drivers assigned to the Mexican Consulate be cited for traffic violations when operating a vehicle bearing such plates.
2. Offenses committed by members, families, or employees of all other Foreign Consulates will be referred to a supervisor.

**C. Foreign Diplomats (61.1.3.d)**

1. When foreign diplomats are arrested, the arresting officer should advise the foreign diplomat of his/her right to have his government notified concerning the arrest. If notification is to be made, the officer shall inform the nearest consulate or embassy. If notification is not requested, it shall be so noted in the IR.
2. Inquiries regarding contact with foreign governments should be made to the Assistant Legal Advisor for Consulate Affairs, Department of State, (202) 647-9576, FAX (202) 647-4115. The Command Center of the Bureau of Diplomatic Society, Department of State, is open 24 hours a day and should be contacted after normal business hours at (202) 647-7227.
3. Witnesses: A witness under subpoena is immune from arrest except for treason, felony, or a breach of the peace while attending or traveling to or from court.

**VII. Constitutional Requirements - Juveniles/Adults**

**A. Interview and Interrogation (1.2.3.a & b)**

1. Under no circumstances will any types of threats, promises, or agreements be used to obtain a confession or admission from an individual relative to any criminal activity.
2. If the suspect is in custody, or not free to leave, or the suspect believes that they are not free to leave, they will be read their Miranda Rights directly from the Juvenile Miranda Form (for juveniles) or the Miranda Card (for adults). The defendant shall acknowledge their understanding of their constitutional rights prior to any interview/interrogation. The officer shall make every attempt to explain the Miranda Rights to the defendant if the defendant is unsure of their rights.
3. If a defendant refuses to answer any questions or states that they do not comprehend their Miranda Rights, even after an officer's explanation, no further questions shall be asked of the defendant. This shall be so noted in the officer's IR.

**B. Access to Counsel (1.2.3.c)**

1. All defendants have the constitutional right to legal counsel prior to and during questioning. If legal counsel is requested by the defendant, every reasonable effort shall be made to allow the defendant to make such contact. It is the responsibility of the defendant to contact legal counsel. (We provide the means: access to a telephone and a telephone book.)

2. If the suspect refuses to answer questions without an attorney present, no further questions shall be asked, and this shall be so noted in the officer's IR. If the suspect initiates a conversation with the interviewer about the crime, the officer will clarify the suspect's desire to talk without an attorney present, and if the suspect waives this right, the interview shall continue.
- C. All defendants shall be arraigned in a timely manner without undue delay. Any unreasonable delays shall be noted in the IR.
  - D. Pre-trial publicity that might prejudice a fair trial shall be kept to a minimum.
  - E. Juvenile Arrests/Referrals:
    1. Juveniles over the age of twelve who have been arrested for a criminal offense will be brought to the Peoria Police Department so that they can be processed by the use of the ILS and MPI Systems. The juvenile will either be detained at JCC or released to an adult who has legal responsibility for the juvenile. If the ILS or MPI is not operational, a Polaroid of the juvenile, a ten-print card and a copy of the Referral will be forwarded to the Crime Scene Technician for later processing. Refer to policy 4.04 Juvenile Operations.
    2. Juveniles arrested on JDOC warrants (Juvenile Department of Corrections) will be brought to the Peoria Police Department to be processed with ILS and MPI prior to them being transported back to the juvenile detention facility.

### **VIII. Arrest from Vehicles/Disposition of Vehicles**

- A. When a suspect is arrested from a vehicle, the decision must be made whether to release the vehicle to the owner, leave the vehicle legally parked at the current location, or have the vehicle towed to a secure location.
- B. The vehicle may be released to the registered owner if the owner is not under arrest under the following conditions:
  1. The owner must be physically present and reasonable proof of ownership must be legally established.
  2. The registered owner's judgment must not be impaired by alcohol or drugs.
- C. A vehicle owner may, under certain circumstances, be permitted to leave their vehicle legally parked after a person has been arrested. The following conditions must apply:
  1. The registered owner must be physically present and reasonable proof of ownership must be legally established.
  2. The owner's judgment must not be impaired by alcohol, drugs, or illness to the point that they cannot make a reasonable decision to leave the vehicle unattended.
  3. The owner must sign a Vehicle Liability Release form.
  4. The vehicle owner may also be permitted to release their vehicle to another driver as long as that driver is capable of safely operating the vehicle and is properly licensed.
- D. If the registered owner is cannot be contacted; or of a reasonable decision cannot be made by the registered owner based upon the officer's observations, judgment, and justification; or the vehicle cannot be released to the registered owner for any other reason, the vehicle will be removed from the scene and secured.
  1. When towing the vehicle incident to arrest, Communications will contact the contract towing service to respond and tow the vehicle to their storage location.
  2. The vehicle's ignition key will be turned over to the registered owner or a responsible party (i.e. contract tow company driver). If the registered owner or a responsible party cannot be contacted, the keys to the vehicle shall be impounded into property and the driver of the vehicle shall be advised that the registered owner may obtain the keys during normal business hours.

**Peoria Police Department**  
**Policy 4.23 Arrest Procedures**  
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**APPROVED:**   
\_\_\_\_\_  
**Larry J. Ratcliff**  
**Acting Chief of Police**

## Maricopa County Attorney’s Office Prosecution Policies and Procedures

CHAPTER CHARGING, GRAND JURY, EXTRADITION	EFFECTIVE DATE 10/15/94	PROCEDURE # 1.9
SECTION CLASS 6 FELONIES DESIGNATED AS MISDEMEANORS		
DISTRIBUTION TRIAL ATTORNEYS	REVISION DATE 4/24/06	REVISION # 7

All Class 6 Felonies, **except** those listed below shall be designated as Class 1 Misdemeanors. The Maricopa County Attorney’s Office shall file Class 6 Felonies for the following offenses following a case-by-case review:

- A.R.S. §
- 5-112 Sports Gambling
  - 11-1023 Unauthorized Release of Animals
  - 12-994 Violation of Court Order Re-Abatement of Property
  - 13-1001 Attempt
  - 13-1002 Solicitation of Class 4 Felony
  - 13-1003 Conspiracy
  - 13-1004 Facilitation of Class 2 or 3 Felony
  - 13-1201 Endangerment
  - 13-1202 Threatening and Intimidating (retaliation)
  - 13-1204 Aggravated Assault
    - (After Entering Home)
    - (Defendant over 18, Victim under 15)
    - (Police Officer)
    - (Victim is Teacher)
    - (Victim is Bound)
    - (Victim is Fireman)
    - (Health Care Practitioner)
    - (Violation of Order of Protection)
    - (Victim is a Prosecutor)
    - (Control over Officer Restraint Implement)
  - 13-1205 Administering Liquor, Narcotic, Dangerous Drug
  - 13-1208 Assault by Vicious Animal
  - 13-1212 Prisoner Assault with Bodily Fluids
  - 13-1302 Custodial Interference
  - 13-1401.01 Sexual Assault of Spouse
  - 13-1402 Indecent Exposure to Minor
  - 13-1405 Sexual Conduct with Minor 14 or Over
  - 13-1418 Sexual Conduct by Behavioral Health Professional
  - 13-1504 Criminal Trespass 1st Degree
    - (Entering or Remaining Unlawfully in or on a Residential Structure if the residence is occupied)
    - (Desecration of Religious Symbol or Other Religious Property)
    - (Critical Public Service Facility)
  - 13-1505 Burglary Tools, Buy/Use Master Key
  - 13-1602 Criminal Damage caused by Graffiti
  - 13-1604 Aggravated Criminal Damage
  - 13-1802 Theft of a Firearm

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- 13-1805 Shoplift of a Firearm
- 13-1806 Failure to Return Rental Property
- 13-1813 Failure to Return Motor Vehicle Subject to Security Interest
- 13-2006 Criminal Impersonation
- 13-2110 Unlawful Use of a Scanning Device or Re-encoder
- 13-2316 Computer Tampering
  - (Preventing Computer from Exiting a Site)
  - (Obtaining Confidential Information of State, Political Subdivision or Medical Institution)
- 13-2316.01 Unlawful Possession of Access Device
- 13-2316.02 Unauthorized Release of Proprietary Information
- 13-2407 Tampering with a Public Record
- 13-2411 Impersonating a Peace Officer
- 13-2508 Resisting Arrest
- 13-2603 Trading in Public Office
- 13-2605 Commercial Bribery \$100 or over - less than \$1000
- 13-2703 False Swearing
- 13-2704 Unsworn Falsification
- 13-2804 Tampering with a Witness
- 13-2807 Jury Tampering
- 13-2808 Misconduct by a Juror
- 13-2809 Tampering with Physical Evidence
- 13-2904 Disorderly Conduct - (Reckless Display of Gun)
- 13-2910 Cruelty to Animals
- 13-2911 Interference w/ or Disruption of an Educational Institution
- 13-2921 Harassment
- 13-2922 Interference w/ Public Safety Emergency Transmission
- 13-3005 Interception of Wire, Electronic & Oral Messages
- 13-3006 Divulging Communication Service
- 13-3008 Possession of Interception Devices
- 13-3102 Misconduct Weapons
  - (School Grounds)
  - (Prohibited Possessor)
  - (Sell to Prohibited Possessor)
- (Defacing Deadly Weapon)
  - (Possess Defaced Deadly Weapon)
- 13-3107 Unlawful Discharge of Firearms (Shannon’s Law)
- 13-3109 Sale or Gift of Firearm to a Minor
- 13-3111 Minors Prohibited from Carrying or Possessing Firearms
- 13-3305 Betting & Wagering

# Maricopa County Attorney’s Office Prosecution Policies and Procedures

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SECTION CLASS 6 FELONIES DESIGNATED AS MISDEMEANORS		
DISTRIBUTION TRIAL ATTORNEYS	REVISION DATE 4/24/06	REVISION # 7

- 13-3402 Possession/Sale Peyote
- 13-3404 Failure to Submit Report - Sale Precursor Chemicals
- 13-3405 Possession of Marijuana less than 2 pounds
- 13-3406 Possession of Prescription Drugs for Sale-Sell-Transport, etc.
- 13-3417 Use of Wire Communication in Drug Transaction
- 13-3421 Use of Building for Drug Transactions
- 13-3453 Manufacture/Distribution-Imitation Controlled Drug
- 13-3454 Manufacture/Distribution-Imitation Prescription Drug
- 13-3455 Manufacture/Distribution-Imitation Over/Counter Drug
- 13-3507 Public Display of Explicit Sexual Materials
- 13-3509 Failure to Report Request to Make Pornography
- 13-3513 Sale or Distribution of Materials Harmful to Minors Through Vending Machines
- 13-3556 Admitting Minors to Public Displays of Sex Conduct
- 13-3603.01 Partial-birth Abortions
- 13-3620A Failure to Report Neglect of Minor (if involves a reportable offense)
- 13-3620E Failure to Report Fetal Alcohol Syndrome (if involves a reportable offense)
- 13-3620F Failure to Report Neglect of Minor (if it involves a reportable offense)
- 13-3620G Failure to Provide Medical Records of a Minor (if it involves a reportable offense)
- 13-3620G Failure to Notify Official (if involves a reportable offense)
- 13-3623 Abuse Non-Death Criminal Negligence  
(Child)  
(Vulnerable Adult)
- 13-3704 Adding Poison, etc., to Food, Drink, or Medicine
- 13-3709 Obtaining Cable Television Services Fraudulently
- 13-3719 Obtaining Wireless Telecommunications Services/ Devices Fraudulently
- 38-421 Public Records - Stealing, Destroying, Altering or Secreting
- 38-423 Public Officer - Making or Giving False Certificate
- 38-444 Public Officer - Asking or Receiving Illegal Gratuity
- 38-465 Public Officer - Purchase of Appointment to Office
- 38-466 Public Officer - Sale of Appointment to Office
- 38-503 Unlawful Conflict of Interest in Purchase or Sale by Public Officer
- 38-504 Unlawful Use of Information from Former Employer by Public Officer
- 38-505 Unlawful Receipt of Additional Income by Public Officer
- 38-763 Defraud State Retirement System
- 38-781.32 Falsify State Retirement System Record
- 16-182 Voter Registration - False Registration
- 16-183 Allowing False Registrations - Violations
- 16-907 Campaigns - Prohibited Contributions
- 16-919 Campaigns - Prohibition of Contributions by Corporations
- 16-1010 Election Officer - Refusal by Election Officer to Perform Duties
- 28-1383 Aggravated Driving Under the Influence (Minor under 15 in Vehicle)
- 38-849 Falsify Limitations State Retirement System

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DISTRIBUTION TRIAL ATTORNEYS	REVISION DATE 4/24/06	REVISION # 7

- 39-161 Any Person - Presentment of False Instrument for Filing in a Public Office
- 39-124A Release of Identifying Information of a Criminal Justice Official
- 39-124B Release of Photograph of Criminal Justice Official
- 41-367 Omission of Prescribed Notices by Electronic Notaries
- 41-1756 Central Repository – Unauthorized Access [See Prosecution Policy # 1.83, Charging Issues Related to Specific Crimes: Criminal History.]
- 41-2823 Aid Escape of Youth Committed to DOC
- 42-1128 Making False Statement to Property Tax Assessor
- 44-6561 Charitable Solicitation Fraud

All Class 6 offenses not listed above and occurring in incorporated areas of a city should be sent to the City Prosecutor’s Office in the jurisdiction except where the investigation was handled by another jurisdiction’s law enforcement agency. In that case, MCAO will review the case for filing consideration.

In order to maintain consistency, all Class 6 Felony offenses not listed above and occurring in the unincorporated areas of the County or not sent to the city prosecutor’s office shall also be designated as Class 1 Misdemeanors and will continue to be prosecuted by the Maricopa County Attorney’s Office in Justice Court.

If an agency feels that a Class 6 Felony offense because of its egregious nature or aggravating circumstances deserves to be handled as a felony and not as a misdemeanor, a request should be made to the Bureau Chief whose bureau is responsible for charging the case.

As to those Class 6 Felonies listed above, they will continue to be submitted to our office. If, after reviewing the facts in these cases, a determination is made by the charging DCA that the matter does not warrant felony prosecution, the case will be sent to the appropriate City Prosecutor for review or filed as a misdemeanor in Justice Court.

If any Class 6 Felony is submitted with an offense that is a Class 5 or higher felony, then we will continue to handle the Class 6 matter along with the higher felony charge.