WEST NORRITON TOWNSHIP POLICE DEPARTMENT

Subject: Arrest Made With or Without a Warrant		Policy # 1.2.4
Accreditation 1.2.4		
Effective Date: June 10, 2008	Revised Date:	
By Authority Of: Chief A. Dale Mabry	Signature: ADMabry	

1.2.4 ARRESTS MADE WITH OR WITHOUT A WARRANT

A. Officers shall arrest persons by warrant in accordance with the following procedures.

1. Title 234, the Pennsylvania Rules of Criminal Procedure.

   a. Governs criminal proceedings in all courts, including courts not of record. All actions involving arrests by warrant for the Penal Laws of the Commonwealth of Pennsylvania must follow these rules.

2. Chapter 4, Part D (1), Rule 430, Issuance of Arrest Warrant.

   a. Court case arrest warrant issuance.
   b. Summary warrant issuance.

3. Chapter 5, Part B (1), Rule 509, Use of Summons or Warrant of Arrest in Court cases provides that the issuing authority shall issue a warrant of arrest when:

   a. The offense charged is punishable by a sentence to imprisonment of more than five years or the defendant is charged with more than one offense and one of such offenses is punishable by a sentence to imprisonment of more than five years.

B. Where the arrested person is taken into physical custody and detained at the police station, for however slight a period of time, an Arrest Report with all the information requested shall be completed and filed.

C. All persons arrested for a felony, misdemeanor, or summary offense that becomes a misdemeanor after a first conviction, such as Retail Theft, shall be fingerprinted and photographed. If the person is to be arraigned at this time they shall be taken before a Magisterial District Justice either in person or by video conference. If they are not to be arraigned immediately and there are no other extenuating circumstances, such as an uncertainty about their identity, they may be fingerprinted and photographed at the station. If they are fingerprinted at the station the fingerprints shall be submitted to the Pennsylvania State Police Central Repository within 48 hours. Persons arrested by summons or who are to be fingerprinted by court order because of a conviction from a private complaint may be fingerprinted and photographed either at the station or by Livescan.

D. The arrested person, having completed the booking process and when immediate arraignment is not possible, will be lodged in an available cell pending arraignment.

E. Following the arrest and detention, however slight, the arrested person shall, as soon as possible based on all factors such as condition of the arrested person, availability of the Magisterial District Judge, etc., be given an arraignment before the Magisterial District Judge on call. It should be remembered the United States Supreme Court has ruled in certain cases that an arraignment must take place within six (6) hours of arrest, and this criteria must be met since failure will result in the suppression of any and all statements taken prior to arraignment.

F. For any of the following offenses, a police officer shall, upon view, have the right of arrest without warrant upon probable cause when there is ongoing conduct that imperils the personal security of any person or endangers public or private property:

1. Under Title 18 (relating to crimes and offenses) when such offense constitutes a summary offense:

   18 Pa.C.S. § 5503 (relating to disorderly conduct).

   18 Pa.C.S. § 5505 (relating to public drunkenness).

   18 Pa.C.S. § 5507 (relating to obstructing highways and other public passages).

   18 Pa.C.S. § 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages).

G. A non-traffic citation will be issued by the arresting officer for summary offenses under the Pennsylvania Crimes Code and/or West Norriton Township Ordinances, in the following instances and manner, as prescribed by the Pennsylvania Rules of Criminal Procedure:

1. Where the arresting officer observed violations of a summary nature; such as disorderly conduct, open burning, solicitors, or public drunkenness, a Non-Traffic Citation should be issued on the scene and the person released with these exceptions;

   a. Where the arrested person is obviously too intoxicated to take care of himself, or is a hazard to himself or others due to his condition.
   b. Where the arrested person is extremely disorderly or combative
   c. Where the arrested person continues to harass or threaten other members of the public.
   d. Where the arresting officers reasonably feels that any of the above criteria are met, the arrested person should be taken into physical custody and if charged with a misdemeanor or felony offense, then undergo the booking process as outlined in Sections B, C, and D of this order.

e. If the arrested person is charged with only Public Drunkenness under Section 5505 of the Pennsylvania Crimes Code then the arrested person may be lodged in a cell until such time as he is sober enough to take care of himself at which time he may be released or he may be released to a responsible party.

H. If a person is arrested for a misdemeanor or felony the person shall be advised of their Miranda Warnings only if questioning will occur as outlined in General Order 1.2.2.

I. Warrantless Arrests - Officers may make an arrest without a warrant if the offense is a felony, a misdemeanor committed in the officers presence, a violation of Chapter 39 of the Pennsylvania Crimes Code relating to Theft, or any other misdemeanor offense where non-view warrantless arrest has been statutorily authorized such as a violation of Section 3802 of the Pennsylvania Vehicle Code relating to Driving Under the Influence. Refer to Rule 502 of the Pennsylvania Rules of Criminal Procedure for further information and direction.

J. ALTERNATIVES TO ARREST, PREARRAIGNMENT CONFINEMENT, AND/OR PRETRIAL RELEASE

1. The power of arrest granted to police officers is one of the alternatives available to them under circumstances that require some form of police action. Additional alternatives that are effective and still allow an officer an alternative to arrest and/or pre-arraignment confinement are summary citations and minor misdemeanor cases:

a. Procedures in Summary Cases - Chapter 4 of the Pennsylvania Rules of Criminal Procedure, Title 234, outlines the procedures to be used in summary cases. Rule 441, Procedure Following Arrest Without Warrant states:

i. When a defendant has been arrested without a warrant, the defendant shall be either released from custody pursuant to paragraph (b) or taken before the proper issuing authority under paragraph (c).

ii. When a defendant has been arrested without a warrant, the arresting officer may, when the officer deems it appropriate, promptly release the defendant from custody when the following conditions have been met:

(a) the defendant poses no threat of immediate physical harm to any other person or to himself or herself:

(b) the arresting officer has reasonable grounds to believe that the defendant will appear as required

(c) a citation shall be issued to the defendant at the time of release and therefore the case shall proceed in accordance with Rules 405-409 as if

the proceedings had been instituted by issuing a citation to the defendant.

iii. When the defendant has not been released from custody under paragraph (b),

(a) the defendant shall be taken without unnecessary delay before the issuing authority when available pursuant to Rule 117 where a citation shall be filed against the defendant, and
(b) the defendant shall enter a plea
(c) if the defendant pleads guilty, the issuing authority shall impose sentence. If the defendant pleads not guilty, the defendant shall be given an immediate trial unless:

1) the Commonwealth is not ready to proceed, or the defendant requests a postponement or is not capable of proceeding, and in any of these circumstances, the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial; or
2) the defendant's criminal record must be ascertained before trial as specifically required by statute for purposes of grading the offense charged, in which event the defendant shall be given the opportunity to deposit collateral for appearance on a new date and hour fixed for trial, which shall be after the issuing authority's receipt of the required information.

(d) if the defendant is under 18 years of age and cannot be given an immediate trial, the issuing authority promptly shall notify the defendant and the defendant's parents, guardian, or other custodian of the date set for the summary trial, and shall release the defendant on his or her own recognizance.

2. Minor Misdemeanor Cases - Chapter 5 of the Pennsylvania Rules of Criminal Procedure, Title 234, governs Procedures in Court Cases. Rule 519, Procedures in Court Cases Initiated by Arrest Without Warrant states,beginning with subsection (B) RELEASE:

a. The arresting officer shall promptly release from custody a defendant who has been arrested without a warrant, rather that taking the defendant before the issuing authority, when the following conditions have been met:

i. the most serious offense charged is a misdemeanor of the second degree or misdemeanor of the first degree in cases arising under 75Pa. C.S. 3802,
ii. the defendant poses no threat of immediate physical harm to any other person or to himself or herself; and
iii. the arresting officer has reasonable grounds to believe that the defendant will appear as required

b. When the defendant is released pursuant to paragraph (B)(1), a complaint shall be filed against the defendant within 5 days of the defendant's release. Thereafter, the issuing authority shall issue a summons, not a warrant of arrest, and shall proceed as provided in Rule 510.

3. Informal Resolution - Officers should keep themselves aware of alternative solutions to problems that they may confront on the job. There are many agencies available to help people with various problems. Many of these agencies are listed on the back of the Victim's Rights form that is given to the victim's of certain crimes. Officers can also get further information about what types of services are available to settle problems without arrest by contacting the Montgomery County Emergency Dispatch Center and advising them of the type of problem.

4. Written Warnings - Officers may decide to issue a written warning in the case of a summary violation. If the written warning is issued the officer should fill the warning in with all pertinent information and issue it to the violator. If it is a warning that requires some action be taken by the violator then the violator should be advised as to exactly what is expected of him. If the warning does not require that the violator do anything, as in a warning for speeding or a red light, then the violator should be advised of this and cautioned about the violation. It is up to the issuing Officer if he wishes to keep all his written warnings. They should be marked on his Daily Log for the day to show some of the Officer's activities. The issuance of written warnings is a discretionary decision to be made by the issuing officer. This decision should not be made lightly and should be made while keeping in mind and following the guidelines as set forth in section 1.2.6.

K. USE OF DISCRETION

1. Discretionary power is the power of free decision, or latitude of choice within certain legal bounds. When this power is poorly exercised, discretionary power may be viewed by the public as favoritism, bias, or corruption.

2. Therefore, it is imperative that officers take into consideration when exercising discretionary power the goals and objectives of the department, the best interests of the public we serve, any mitigating circumstances, and the volatility of the situation at hand.

3. Discretionary actions shall never in any way be based upon or influenced by race, color, religion, ethnic or national origin, sex, sexual orientation, pregnancy, child care needs, age or disability of any person.