

## **1.2 LIMITS OF AUTHORITY**

**POLICY:** The Sheriff's Office shall impartially enforce the laws of the United States, the State of Maryland, and the laws and ordinances of Washington County.

### **PROCEDURES:**

#### **1.2.1 Limits of Authority**

Authority of the Sheriff of Washington County and His Deputies

The Sheriff is the administrative head and commanding officer of the Washington 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 that 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 Title 2, Subtitle 3 of Courts and Judicial Proceedings (CJP).

## **LAW ENFORCEMENT DEPUTIES**

#### **1.2.2 Legal Authority to perform duties and Requirements to Compliance with all U.S. and State Constitutional Requirements**

- A. Law 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 Washington 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 Departmental Policy. No arrest will be made without probable cause. There will be due regard for these laws while conducting interviews, interrogations and field interviews. Suspects and subjects will be afforded all of their rights at all times while dealing with the Washington County Sheriff's Office. Sworn members will exercise police authority on land, water, and air within the boundaries of Washington County.

- B. In addition to having authority by virtue of the Constitutional Office of Sheriff, Law Enforcement 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 the Criminal Procedure Article (CPA), Title 2, Subtitle 2, 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. CPA 2-101(c)(11) 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”.

#### Power of Arrest

##### A. Authority by Legislative Action

1. CPA Title 2, Subtitle 2, 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). Title 2 of the Criminal Procedures Article 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, the law 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 on Use 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.

### **1.2.3 Compliance with all applicable Constitutional Requirements**

#### **A. Victim/Witness Interview**

1. Successful criminal investigations are based on the thoroughness and accuracy of the investigation. This includes the detailed and precise interviewing of victims and witnesses and the concise documentation of the interview.

Factors, which should be taken into consideration when interviewing, are:

- " The trauma and stress to which the victim or witness has been subjected.
- " The location of the interview (should be in private if possible).
- " The age and physical limitations of the victim and witness.
- " The credibility of the interviewer.
- " The timeliness of the interview.

2. Investigators should be aware that discretion plays an important part in timing of the interview. As time increases between the incident and the interview, information tends to lose its accuracy. At the same time, if a victim or witness is emotionally distraught over an incident, an interview initiated prematurely may produce negative results.

#### **B. Field Interviews**

Field interviews are a productive tool and source of information for the Office. They shall only be used in the pursuit of legitimate goals of the Office and not to harass any segment or any particular member of the community. When used properly, they can discourage criminal activity, identify suspects and add intelligence information to the files of known criminals. Some legitimate uses of the field interview report include:

1. Identifying a suspicious person in a high crime area who fits the description of a suspect.
2. Identifying a suspicious person who is in an area at a time, which is unusual or abnormal.
3. Identifying a suspicious person under circumstances in which one would believe criminal activity may be afoot.

#### **C. Interrogation of Suspects**

1. The interrogation of suspects shall be conducted with respect to all constitutional guidelines. The interrogation and waiver form should be used when initiating an interrogation of a suspect.
2. Detailed notes and/or a recording tape should be made for future reference and court use, when practical. The notes and/or tape recording should include the date, location, persons present, Waiver of Rights, the time the interrogation began and ended, and all other pertinent information.

3. Statements or admissions obtained during an interrogation shall not be through use of coercion or promise.

D. Constitutional Requirements and Access to Counsel

1. In order to protect the constitutional rights of persons involved in criminal investigations, the following guidelines will be adhered to:
  - a. Deputies shall not coerce or obtain involuntary confessions from persons suspected of criminal involvement.
  - b. Prior to interrogating a suspect, whenever he is in custody or is otherwise deprived of his freedom, a deputy must first advise the suspect of his or her constitutional rights as required by the U.S. Supreme Court decision of *Miranda vs. Arizona* (1966). Deputies must inform the suspect of his/her rights to prompt presentment before a District Court Commissioner, if the suspect is under arrest or is likely to be placed under arrest reference their interrogation. Deputies must have the suspect review and sign the Notice of Right to Presentment form 42U, before any investigative questions are asked of the suspect.
  - c. The definition of a custodial interrogation can be a confusing concept. Therefore, whenever there is doubt about a custodial interrogation, the suspect should be advised of his constitutional rights.
2. When Miranda warnings are not necessary:
  - a. Before questioning a person who was merely a witness to a crime or who may know something about a crime but is not a suspect.
  - b. Before questioning a suspect who has not been deprived of their freedom in any significant way and realizes they are free to terminate the interview at any time.
  - c. Before questioning a motorist stopped for a routine traffic offense.
  - d. Before asking questions reasonably motivated by concern for public safety.
  - e. Without express questioning or its functional equivalent there is no "interrogation" within the meaning of *Miranda*, even though the suspect may be in custody.
3. Right to Counsel - Once a defendant has expressed a desire to exercise the right to counsel, he/she shall not be interrogated until the defendant has obtained counsel or a court appointed attorney.

## 1.2.4 Search and Seizure without a Warrant

### A. Consent

1. Certain persons can authorize a warrant less search and seizure of property. A present, joint owner, can VETO consent.
2. Deputies may search under the "consent search" exception if the consent is voluntary under the totality of circumstances. It is recommended that Deputies advise persons of the right to refuse the search.
3. Consent given by persons under arrest should be given in writing.
4. The scope of a consent search can be limited by the consent giving party to specific areas or types of items.

### B. Stop and Frisk

1. Under common law principles, a deputy may stop a person, without probable cause to arrest, if the deputy observes unusual conduct leading to a reasonable suspicion that criminal activity may be afoot. The deputy must be able to communicate specific and particularly facts to warrant the suspicion. (If probable cause to arrest does **exist**, then the deputy may arrest within guidelines of Article 27, Section 594B.)
2. In such circumstances, a protective frisk is authorized if the deputy reasonable believes that the individual may be armed and is presently dangerous.
3. The deputy may frisk the suspect's outer clothing and may also frisk inside the suspect's outer clothing when there is a reasonable fear that the area may contain an instrument of assault.
4. Article 27, Section 36D codifies the right of deputies to conduct a "limited search". Deputies may conduct a limited search under the authority, and within the statutory constraints, of the section.

### C. Automobile Searches

1. Deputies may conduct warrant less searches of vehicles if:
  - a. The thing to be searched is a moveable vehicle, and/or any container(s) in such a vehicle, and
  - b. There is probable cause to believe the places searched contain evidence of a crime, and
  - c. Exigent circumstances are present.

2. Where a deputy impounds a vehicle under probable cause that the vehicle contains evidence of a crime, the deputy shall obtain a search warrant prior to searching the vehicle, unless exigent circumstances beyond the automobile exception, exist to justify warrant less intrusion. (Here, the Office requires that the deputy may not rely upon the moveable nature of the auto to create exigency, and affirms that a warrant is the preferred method of entry.)
  3. The scope of the search may not exceed the object of the search.
- D. At the scene of a Crime and in Plain View
1. Physical evidence may be searched for, collected and preserved when investigating any crime scene. Criminal investigators will be mindful of physical evidence that is collected from a crime scene and ensure that it is used in the development of the case.
    - a. Unless disruption is necessary to assist the injured or to affect an arrest, the actual crime scene must remain intact until completion of an examination for evidence. All unauthorized personnel, including law enforcement not assigned to the case, must be barred from the scene.
  2. Crime Scene
    - a. Upon arrival at the scene of a crime, the deputy will obtain consent to search and seize per agency guidelines.
    - b. An absence of a consent to search and seize will require the deputy to secure the crime scene until a search warrant is obtained unless exigent circumstances exist.
  3. Deputies may seize evidence observed in "plain view" when certain criteria are met:
    - a. The deputy must be legally present at the location where the observations are made. (In the case of a house, for example, this means the deputy is inside the house when contraband is observed.)
    - b. The discovery of evidence must be inadvertent.
    - c. There must be probable cause to associate the item with criminal activity under a totality of the circumstances standard.
    - d. The deputy seizing an item of evidence under the "plain view" doctrine is not justified in expanding the scope of a search to unexplored areas not visible from the spot of the initial intrusion under the "plain view" doctrine.

E. Public Safety

1. If a deputy has a reasonable, articulable suspicion that delay in searching the crime scene would result in a danger to public safety, a warrant less search is authorized.
  - a. Individual may be injured and in need of immediate medical attention.
  - b. Suspect may still be at the crime scene and pose a serious threat to the deputy or public if not immediately apprehended.
2. Once a search of the crime scene is initiated for those exigent circumstances, and neither an injured person or suspect is located, no further search will be conducted until a search warrant or consent to search and seize is obtained.

F. Inventory

1. Whenever a deputy either impounds or seizes a vehicle, or tows a vehicle of an impaired or incapacitated person, or tows the vehicle of a person who is not on the scene, the vehicle shall be inventoried. Personal property of significant value shall be removed, unless the deputy is relieved of this responsibility by the exception below. Removed property will then be either returned to the owner or submitted to the Evidence Control Unit utilizing the Property Held form.
  - a. If the owner of the property desires to leave the property with the vehicle, the owner shall be informed by the towing deputy that the security of the property becomes the responsibility of the owner, and a notation of such made on the Vehicle Storage Report.
  - b. Deputies must be reasonable in assessing the mental condition of the defendant/operator. Requests by a rational arrestee to leave property with the vehicle will be honored.
  - c. Towing rules and regulations direct and authorize deputies in towing vehicles. This General Order simply mandates an inventory of all property when stored.

G. Postmortem Examinations

1. Article 22, Section 6 A.C.M. commands deputies to take possession of all property of value found upon a deceased person in the absence of the next of kin.

2. The investigating deputy is responsible for collecting personal property of value (including wallet and jewelry).
3. The property taken shall be maintained according to Washington County Sheriff's Office's Property Held Rules and Regulations and may be released to the custody of the next of kin with proper identification.

### **1.2.5 Procedures for Arrest**

#### **A. Arrestee Processing**

##### **1 Arrestee Property Inventory/Searches**

- a. Transporting deputies will search arrestees for evidence, contraband, or weapons prior to the arrestee being placed in a holding cell. The Duty Officer or Shift Commander or his designate will be held responsible for searching arrestees transported by other police agencies or those turning themselves in at the Patrol Building.
- b. Before being placed in a holding cell, all personal property will be removed from arrestees. Personal property includes, but is not limited to:
  - (1). contents of all pockets,
  - (2). jewelry
  - (3). belts
  - (4). shoelaces
  - (5). coats
  - (6). hats
- c. Personal property will be secured/inventoried as follows:
  - (1). All property will be inventoried in front of the arrestee, unless the arrestee is violent, or otherwise incapable of comprehending the inventory process.
  - (2). If it is not practical for the arrestee to witness the inventory, it will be witnessed by a second deputy.
  - (3). If the arrestee refuses to witness and sign the inventory, the refusal will be noted and the inventory will be witnessed by a second deputy.



- (4). Personal property taken from arrestees will be listed on the “Arrestee’s Personal Property Log Form”
- (5). If the property taken is evidence or contraband, it will be handled in accordance with General Orders.
- (6). Property will be placed in a property bag and the arrestee’s name will be placed on the bag. The property bag will be placed in the Arrestee Property Locker and the key left with the Duty Officer or Shift Commander if the processing deputy must leave the processing area.
  - (a). Property that cannot be placed in a locker will be the responsibility of the arresting deputy and will not be left unattended.
- (7). Upon the arrestee’s transfer or release, the property will be given to the appropriate authorities at the location of transfer. A copy of the “Arrestee’s Personal Property Form” should be included with the arrestee’s personal property bag and turned over to the Booking Deputy at the Detention Center if he/she is incarcerated. This provides the Booking Deputy with a list of property he/she should expect to find when he/she goes to conduct and record their own inventory, or returned to the arrestee if the arrestee is released. Articles of evidence or contraband will not be transferred or released to the arrestee. At the time the arrestee is released and property returned, the arrestee will sign the “Arrestee’s Personal Property Form” indicating that property taken is being returned. Any property not returned will be accounted for by a departmental property record. If the arrestee refuses to sign the “Arrestee’s Personal Property Form”, it will be documented and witnessed by a second deputy.

2 Arrestee Processing: Each arrestee placed in a holding cell will be processed as follows:

- a. An “Arrest Report/Medical Survey” and “Arrestee’s Personal Property Log” will be completed, documenting the following information.
  - (1). Arrest information, offense, arresting deputy, report number.
  - (2). The arrestee’s apparent physical condition.

- (3). Any known factor that would place the arrestee or personnel at risk; i.e., physical ailments, violent tendencies, suicidal tendencies, drug/alcohol influence.
- (4). Property inventory and disposition.

B. On Scene Arrest

- 1. On Scene Arrest Procedure - When responding to all calls, deputies must remember that the intent of this agency is to protect victims and to enforce the law. Victims may require a variety of assistance to meet their immediate needs for safety, medical treatment, and information. Arrest, however, by providing immediate safety to the victim and taking control away from the offender, is probably the most significant assistance deputies can provide. Therefore, deputies are required, upon arrival at the scene of a complaint to:
  - a. Stop existing violence and prevent further violence from occurring;
  - b. Separate the parties, when practical;
  - c. Determine whether any criminal violations are alleged;
  - d. Secure medical treatment for victims, if necessary;
  - e. Ensure safety of any children;
  - f. Obtain all necessary information for report purposes for all parties involved;
  - g. Arrest suspect(s) if possible
  - h. Where probable cause exists, but an on-scene arrest cannot be made either because the assailant is not on the scene or because the law does not authorize warrantless arrest, deputies
    - (1). Will actively assist the victim in obtaining a warrant.
    - (2). This would not preclude applying for the warrant on behalf of the victim.
  - i. Encourage victims to make application for criminal charges before a District Court Commissioner when warrantless arrests cannot be lawfully effected. If grounds for a warrantless arrest do not exist, inform the parties that this was a crime and that help is available. If necessary, responding deputies may make provisions to assist in transporting the victim to the Court Commissioner to apply for a charging document. The arrest can then be made on strength of the charging document.

- j. Provide referral information to any domestic abuse victims.
  - (1). Give the victim a Crime Victim and Witnesses booklet explaining legal rights, court options, and how to obtain a protective order;
  - (2). Give the victim a Crime Victim and Witnesses booklet with the telephone number of shelters, advocacy groups, battered groups, and crime victim compensation;
  - (3). Arrange for, or provide, transportation to a shelter or safe place.
  - (4). Inform victim of report availability through the Records Section.

2. Investigation

- a. In all alleged incidents, a thorough investigation will be conducted. Appropriate evidence collection and investigative actions completed and the investigating deputy shall:
  - (1). Interview parties involved separately if possible.
  - (2). Take photographs of the victim(s), crime scene, any children present, and all visible injuries.
  - (3). Collect the "911" call tape through Communication, if an arrest is effected and deemed necessary by the arresting deputy.
  - (4). Complete the necessary paperwork in the time frame prescribed by the General Orders, and submit to the duty officer or Shift Commander.
- b. The assigned deputy will notify a supervisor if there has been any felony arrest. The nature and seriousness of any victim's injuries may dictate the need for follow-up by an investigator from the Criminal Investigation Section.
- c. In all cases of domestic violence where there is probable cause to arrest and no arrest is made by the assigned deputy, the reason(s) for not arresting must be documented in the report.
- d. Deputies are to be alert to other signs of problems or violence, such as child and elder abuse, or animal (pet) abuse, and fully document such observations. Deputies will interview children when circumstances dictate.

- e. In cases of physical injury, whether or not criminal charges are filed, the investigating deputy shall:
  - (1). Take photographs of the victim(s), documenting all visible injuries.

### 3. Arrest

- a. A deputy may arrest, without a warrant, any person who commits, or attempts to commit, any felony or misdemeanor in the presence of, or within the view of, a deputy
- b. A deputy may arrest a person without a warrant if both (1) and (2) below are true:
  - (1). The deputy has probable cause to believe that:
    - (a) A felony has occurred and the subject being arrest is the suspect that just committed the felony
  - (2) Unless the person is immediately arrested, the person may
    - (a) Not be apprehended
    - (b) Cause injury to the person or damage the property of one or more other persons; or
    - (c) Tamper with, dispose of, or destroy evidence
- c. In a domestic case a report to the police was made within 48 hours of the alleged incident.

Specific misdemeanor offenses for which a deputy may arrest without a warrant and that are common to domestic violence, include, but are not limited to:

- (1). Carrying or wearing a weapon; and
- (2). Destroying, injuring, etc., property of another, including attempts; and
- (3). Stalking when:
  - (a) The deputy has probable cause to believe that a stalking has been committed,
  - (b) The deputy has reason to believe that the alleged stalking victim or a third person is in danger of imminent bodily harm or death, and

- (c) The probable cause is supported by credible evidence other than statements of the alleged stalking victim.
  - (d). If a deputy has probable cause to believe that mutual battery occurred and arrest is necessary under this section, the deputy shall consider whether one of the parties acted in self-defense when making the determination whether to arrest the person whom the deputy believes was the primary aggressor.
- 3. When a person has been taken into custody for on scene arrest, the arresting deputy will transport the person to the Sheriff's Office and immediately take the following actions:
  - a. File an Adult Arrest report, and charging document.
  - b. Take photographs of the subject.
  - c. Take finger print cards for the Sheriff's Office, the Maryland State Police, the F.B.I., and the Green F.B.I. Disposition Print Card.
  - d. The arresting deputy will transport the defendant to the District Court Commissioner for an Initial Appearance.
  - e. Attach the fingerprint cards, copies of MILES/NCIC checks and the arrest file.
  - f. Submit the entire file to the Duty Officer in charge at time of arrest for review and approval of finger print cards, (the Duty Officer or Shift Commander) will initial each card as approved). The Duty Officer or Shift Commander will also review/sign arrest reports and ensure all pertinent documents are enclosed in the arrest file.
  - g. Submit a Criminal Investigation Report within 5 working days, or the necessary traffic enforcement report as required in the necessary time frame.

#### C. Arrestee Rights

- 1. Arrestees charged on a District Court charging document will be taken to a District Court Commissioner for an initial appearance within 24 hours of the arrest or service of a warrant in accordance with Maryland Rules 4-212. If the arrestee has been arrested on a Circuit Court warrant, specifying appearance before a Judge, he/she will be taken before the court as soon as possible after notification from the Judge. Deputies will in no way hamper an arrestee's right to a timely initial appearance.

- a. If an arrestee is too combative or otherwise impaired for an initial appearance within the allotted 24-hour time period as stated above, the District Court Commissioner will be contacted for instructions as to disposition.
    - (1). The Commissioner's instructions will be documented on the arrest report.
  - b. An arrestee's opportunity to contact a bail bondsman after bail has been set will be made available to him once committed to the Detention Center.
2. Attorneys will be permitted direct contact with their clients if responding at the arrestee's request. All attorneys will be searched (including briefcases, etc.) prior to allowing contact. The attorney's identification will be noted in CAD. If the attorney is unknown, the Duty Officer or Shift Commander will attempt to verify the person's status as an attorney. The attorney and his client, if possible, will be afforded a place of privacy in which to confer. Deputies will respect the confidentiality of the attorney/client relationship, and will not listen to any conversations.
  - a. The attorney and the arrestee will be notified that the conference will be visually monitored but there will not be any audio monitoring of the conference.
  - b. Arrestees will be searched prior to and following any such contact.
  - c. The Duty Officer or Shift Commander may refuse contact with attorneys, if there is legitimate concern about breach of security, or for the health and safety of the arrestee.
  - d. During a consultation with an attorney, the arrestee will be secured by restraints.
3. Upon request, arrestees will be permitted to make one phone call to an attorney. The call will be a local call or long distance collect. Arrestees will be granted privacy while making telephone calls **UNLESS SECURITY CONCERNS DICTATE OTHERWISE**. The telephone call may be denied if it would endanger an ongoing investigation. If such a situation exists, it will be noted in the arrest report.
4. Arrestees will not be held in the Patrol Building longer than necessary for processing. The Duty Officer or Shift Commander will make arrangements to feed any arrestee who is held in the Patrol Building longer than six (6) hours. Detention Center Food Service personnel may be requested to provide food for the arrestee. If the Kitchen is open, staffed and operational, however, they are not required to do so. The Duty Officer or Shift Commander may purchase food at a fast-food establishment, etc.

The arrestee will be given food that does not require the use of eating utensils; i.e., sandwiches, fruit, etc. If for any reason it becomes necessary to hold an arrestee for an extended period of time, three meals will be provided within a 24-hour period.

5. Excluding checks necessary to ensure safety/security, arrestees in holding cells will be afforded privacy; i.e., no unnecessary staring or observation through cell windows or by surveillance camera.

#### D. Supervision of Arrestees

1. The holding area will be under 24-hour supervision by the Duty Officer. At the beginning of each shift, the Duty Officer or Shift Commander will ascertain if any arrestees are being held in the holding area. During each shift the Duty Officer or Shift Commander will ensure the "Detention/Arrestee Check Log" has been completed in its entirety for each arrestee held in the Patrol Building and sign the form.
2. Arrestees determined by the arresting deputy to not be considered high risk will be checked at least once every 30 minutes while in the holding cell. Arrestees determined to be high risk by the arresting deputy will be checked visually in person every 15 minutes, at a minimum, in addition to audio/video surveillance from the Communications Center. These checks will be documented on the "Detention/Arrestee Check Log".
3. It will be the responsibility of the arresting deputy to make the necessary checks on arrestees in the holding facility. If the arresting deputy must leave the Patrol Facility, he will inform the Duty Officer or Shift Commander who will then assume the responsibility of making the necessary checks.
4. Arrestees will be supervised by deputies of the same gender whenever possible. Deputies will respect the rights and dignity of arrestees at all times. At no time will a departmental employee enter a holding cell occupied by an arrestee, except in cases of emergency or for a legitimate security concern. Personnel will not touch arrestees except in cases of emergency, or as part of a security function; i.e., putting on or taking off security restraints. Touching will always be as brief and as incidental as possible. Departmental personnel will always conduct themselves in a professional manner while dealing with arrestees.
5. Electronic Surveillance Equipment: Holding cells are equipped with closed circuit television cameras and audio feeds from the cells to the Communications Center. Surveillance equipment will be in operation when a cell is occupied.
  - a. Communications personnel will monitor arrestees via the closed circuit TV. Anyone witnessing inappropriate behavior or actions y

an arrestee will notify the Duty Officer or Shift Commander and, if requested, another person will be assigned to monitor the arrestee.

E. Duration of Detention in Holding Facility

1. Holding cells in the Patrol Building are to be used as temporary holding areas only. Arrestees will not be held in the cells for longer than six hours without authorization from the Duty Officer or Shift Commander. Authorization will only be granted for legitimate reasons.

F. Holding Facility Training

1. All sworn law enforcement personnel will be given training on the operation of the Holding Facility and procedures for processing arrestees brought into the Patrol Building.
2. All personnel, with the Patrol Building as their primary job site, will be given training on the operation of fire detection/suppression equipment in the building, along with evacuation procedures.

G. Warrant Service

1. A warrant received by this department will be assigned for service by the Warrant Squad as soon as possible after receipt unless circumstances dictate otherwise. This does not preclude other deputies from attempting warrant service.
2. All warrants will be verified as active prior to taking any person into custody.
  - a. Verification on out-of-county warrants is achieved through MILES/NCIC message prior to an individual being taken into custody. The assigned deputy will request the Duty Officer or Shift Commander send a "Hit Confirmation Request" to the originating agency to find out if the warrant is still active.
  - b. Once the warrant has been confirmed as active and the person is taken into custody, the assigned deputy will request the Duty Officer or Shift Commander send a "Locate Message" to the originating agency informing them that this department has the wanted person in custody. Copies of these messages will be kept by the assigned deputy and submitted with his/her report.
3. Original copies of warrants will not be removed from the Communications Center until the wanted person has been taken into custody. Warrants removed from the file cabinet for any reason will be logged out on the "Warrant Log" form. When the warrant is returned to the cabinet, the "in" portion of the caption will be completed. If an original warrant is being



transmitted to another agency; i.e., State's Attorney's Office, a "Warrant Receipt" form, will be filled out by the person releasing the original warrant and will be signed by the receiving person at the other agency.

4. If all leads have been exhausted and the warrant cannot be served, the warrant letter with dates, times, and dispositions of **all** attempts will be forwarded to the WCO immediately following the ten days from assignment of the warrant for service. The WCO will review service attempts to determine if any other method is possible. If not, the warrant letter will be made a part of the warrant file.
5. When a person has been taken into custody on a warrant issued in Washington County, the arresting deputy will transport the person to the Sheriff's Office and immediately take the following actions:
  - a. File an Adult Arrest report
  - b. See that the warrant has been cleared from MILES/NCIC and noted as "served" in the CAD System.
  - c. Take finger print cards for the Sheriff's Office, the Maryland State Police, the F.B.I., and the Green F.B.I. Disposition Print Card.
  - d. Leave the original copy of the warrant, (properly signed as being served), with the Booking Deputy at the Detention Center, if it is a Circuit Court Warrant. If it is a District Court Warrant, the arresting deputy will transport the defendant to the District Court Commissioner for an Initial Appearance.
  - e. Attach the fingerprint cards, copies of MILES/NCIC removal, and a copy of the warrant to the Warrant File.
  - f. Submit the entire file to the Duty Officer or Shift Commander in charge at time of service for review and approval of finger print cards, (the Duty Officer or Shift Commander will initial each card as approved). The Duty Officer or Shift Commander will also review/sign arrest reports and ensure all pertinent documents are enclosed in the warrant file. The Duty Officer or Shift Commander will ensure the warrant has been removed from the CAD System and MILES/NCIC, and forward the file to the Warrant Secretary.
6. If the warrant is a Maryland warrant but from an out of county agency, the following will apply:
  - a. If the warrant is from a Maryland agency outside of Washington County, and is for a person who is already incarcerated on local charges or who is serving a sentence in the Washington County

Detention Center, the warrant will be used as a Detainer Only and will not be served until the charges/sentence are fulfilled.

- b. If the warrant is from a Maryland agency outside of Washington County, and the warrant specifies that the person can be taken before a District Court Commissioner in the county where arrested for first appearance, the warrant **will be served if:**
  - (1). There are no local charges against the person.
  - (2). The person is not currently serving time in the Detention Center.
- c. If a District Court Warrant is from a Maryland agency outside of Washington County, and the warrant specifies that the person must be brought before a District Court Commissioner in the county where the warrant was issued, the warrant **will not be served** but held as a Detainer as follows:
  - (1). If the person is currently in the Washington County Detention Center, the warrant will act as a Detainer until the person can be retrieved by the issuing agency once pending local charges or sentence are satisfied.
  - (2). If the subject is apprehended by departmental personnel on the strength of the warrant only; i.e., no local charges involved, the warrant will not be served but will be used as a detainer. The issuing agency will be notified to retrieve the subject within a reasonable period of time. If a response is not possible within a reasonable period of time, the subject will be taken to the Detention Center with all applicable information to await retrieval.
    - (a). The subject will not be held in the Patrol Division holding cells for more than eight hours.
    - (b.) If the subject is taken to the Detention Center, copies of all teletypes (hit notifications, etc.) will be given to the Booking Deputy and the Booking Deputy will be advised of an approximate time when the issuing agency will pick up the person.
- d. If the warrant is a Circuit Court document from an agency outside of Washington County where the person is not to be taken before a District Court Commissioner, the warrant will not be served, but will be used as a Detainer as in “c” above.

- e. It is imperative that the information be passed to the Detention Center when a warrant is received and is to be used as a Detainer only for a subject that is currently in the Detention Center.
7. When feasible, and in accordance with guidelines set forth in this Order, warrant service will be attempted between 0700 hours and 2300 hours. Other hours should only be used if prior attempts at service have met with negative results, it is established the person is evading service, a question of safety is involved, or other extenuating circumstances are present. Attempts during other hours will be approved.
  8. The arresting deputy will ensure that when a warrant is served, the full name of the person arrested, date of birth, and the warrant number are entered in the remarks section of the event notes in the CAD System.
  9. Upon receipt of a warrant file, which has been served, the Warrant Secretary will check to see if copies of the warrant were distributed to other jurisdictions for attempted service. If copies were distributed to another jurisdiction, the Warrant Secretary will immediately send a teletype to the agency where the copy of the warrant had been sent, notifying them of the service and requesting the return of the copy to this department. A copy of the teletype will be maintained with the warrant file. The Warrant Secretary will also log the date and time the copy of the warrant was received.
  10. Warrants received charging individuals residing in Maryland but outside of Washington County will be logged in accordance with this Order. After recording of the warrant, a "Request for Warrant Service" form, and a copy of the warrant will be forwarded to the appropriate police agency for an attempt at service. A copy of the request form will be kept in the warrant file folder.
  11. The Sheriff's Office will assume responsibility for making MILES/NCIC entries of warrants issued in Washington County and assigned to the Sheriff's Office for service, including those forwarded to another jurisdiction for service.
  12. Warrants received by this department for inmates confined at a correctional facility, (other than the Washington County Detention Center), will be processed as follows:
    - a. Such warrants will be processed in accordance with this Order.
    - b. After recording of the warrant, the Warrant Secretary will send a true test copy of the warrant along with a "Detainer Request" form, to the correctional facility.

- c. A confirmation of receipt will be requested from the facility. A copy of the “Detainer Request” form will be placed in the warrant file folder.
- 13. A warrant received from a Maryland agency outside Washington County for a subject incarcerated in the Washington County Detention Center will be processed as follows:
  - a. Such warrants will be processed in accordance with this Order.
  - b. The Warrant Secretary will give a copy of the warrant to the Detention Center Booking Deputy to hold as a Detainer. The Booking Deputy will sign a warrant receipt for the copy, (warrant receipts will be available in the Detention Center’s Booking Office). A notation of the action will be placed in the warrant file. The warrant may then be served after local charges have been adjudicated.
  - c. The originating agency will be notified that the subject is in the Washington County Detention Center and that a Detainer is on file.
- 14. If a deputy makes an arrest as a result of a warrant originated by another law enforcement agency within Washington County, he shall:
  - a. Immediately transport the subject to the originating agency for warrant service, (in the case of the Maryland State Police or the Hagerstown City Police). The arresting deputy will file an Adult Arrest Report prior to the end of duty tour. A case or warrant number will be included in the report. The agency and name of person taking custody will be given in the report.
  - b. If the originating agency is the Smithsburg Police Department, the warrant will be on file at the Sheriff’s Office. Upon arrest, action taken will include:
    - (1). The prisoner will be transported to the Sheriff’s Office.
    - (2). If a Smithsburg Police Officer is on duty at the time of the arrest, he will be notified and will respond to serve the warrant and process the prisoner.
    - (3). If a Smithsburg Police Officer is not on duty at the time of arrest, the arresting deputy will serve the warrant and process the prisoner per departmental operating procedure.
    - (4). The Warrant Secretary will notify the Smithsburg Police Department when a warrant originated by that agency is served by Washington County Sheriff’s Office Personnel, and forward a copy of the Arrest Report.

- c. If the originating agency is the Hancock Police Department, the following action will be taken:
  - (1). If personnel from the Hancock Police Department are on duty at the time of arrest, they will be notified for service and prisoner processing.
  - (2). The Hancock Police Department utilizes the Records Section, for NCIC/MILES entries of their warrants. If an arrest is made on a Hancock Police Department warrant and no personnel are on duty from that department, Washington County Sheriff's Office personnel will request assistance from the Records Section in obtaining the needed documents to complete the service.

#### H. Fugitive Warrants

- 1. Whenever this agency receives a teletype from an out of state agency, regarding a wanted subject in this area, the following action will be taken:
  - a. The Duty Officer or Shift Commander will review the teletype for proper information identifying the subject, and extradition authorization from Washington County.
  - b. If the teletype does not contain the needed information, a return message will be sent advising the information needed before any action is taken.
  - c. Upon receipt and review of the teletype, the Duty Officer or Shift Commander will assign personnel to check location(s) indicated by the requesting agency.
  - d. A copy of the teletype from the requesting agency will be maintained in the Communications Room, and a copy with personnel attempting to apprehend the subject.
  - e. A teletype is the only acceptable form of communication regarding a request from an out of state agency to apprehend a fugitive.
  - f. A copy of teletypes from out of state agencies requesting apprehension of a fugitive will be given directly to the Detention Center Booking Deputy to serve as a Detainer when:
    - (1). A subject is arrested on local charges, a computer check indicates he/she is wanted on an active out of state warrant, and the originating agency indicates extradition is authorized.

- (2). A subject is currently incarcerated in the Detention Center and a teletype is received indicating he/she is wanted by an out of state agency authorizing extradition.
  - g. When paragraph “f1” and “f2” are applicable, a message will be sent to the requesting agency advising them of the incarceration and that their teletype is being maintained at the Detention Center as a detainer. The requesting agency will also be advised that their contact point for the Department will be the Detention Center’s Classification Department, during normal business hours.
2. Once the fugitive has been taken into custody, the following action will be taken:
- a. The arresting deputy will transport the fugitive to the Sheriff’s Office.
  - b. The arresting deputy will immediately prepare a request for a Fugitive Warrant and submit it to the District Court Commissioner along with copies of teletype requests from the requesting agency. (The fugitive warrant will be obtained only after the fugitive is taken into custody).
  - c. The fugitive warrant will be served and the prisoner processed in accordance with standard procedure.
  - d. The arresting deputy will ensure that the original and a copy of the fugitive warrant, along with a copy of the teletype from the requesting agency, is given to the Booking Deputy at the Detention Center.

### **1.2.6 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. Comply with the "Spirit of Law" without adding to an already clogged justice system, by working out compromises that are fair and agreed to by the victim and the accused, thereby making incarceration or court action unnecessary. In this instance, the "Spirit of Law" would mean fair justice for the victim. Such action may be taken in circumstances involving misdemeanor crimes of a relatively minor nature. For example: A victim's window is broken by an identified juvenile. The victim expresses the sentiment that he/she would be satisfied with having the window paid for or some other form of redress. The parents of the juvenile agree to this, and further action is avoided. Consideration must be given, however, to the extent of the criminal act, whether the juvenile has been involved in prior criminal activity, and the wishes of the victim.
  5. Refer the suspect to a Social Service type agency that 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 CPA, Title 2, Subtitle 2, 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. Patrol Deputies 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. Patrol or Judicial Deputies have a considerable amount of discretion when investigating traffic law violations as to writing a citation or a warning ticket. Patrol Deputies 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, Patrol or Judicial 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 that 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, Patrol or Judicial 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 departmental law enforcement 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.
- F. To summarize, a Patrol or Judicial Deputy may exercise discretion and choose informal action to solve a problem. Such action may take the form of a referral, informal resolution or warning.
- 1. Referrals - the deputy shall offer referrals to other agencies and organizations when, in their judgment, it is the most reasonable alternative for the offender and the violation.
  - 2. Informal resolution - a deputy at their discretion, may offer informal resolutions to situations and conflicts when in the deputy's judgment they can be adequately resolved by use of verbal warnings, informing the proper agency or organization, advising parents of juveniles activity, etc.
  - 3. Warnings - a warning may be issued by a deputy when, in their judgment, it is the most reasonable alternative for the offender and the violation.

### **1.2.7 Use of Discretion**

- A. 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.
- B. Therefore, it is imperative that deputies of the Sheriff's Office take into consideration when exercising discretionary power the goals and objectives of the Sheriff's Office, the best interest of the public they serve, any mitigating circumstances, and the volatility of the situation at hand.

### 1.2.8.1 Procedures for conducting strip and body cavity searches by Patrol and Judicial Deputies

A. Strip Search: A strip search of an arrestee is only permitted whenever the arresting deputy has reasonable suspicion to believe the arrestee is concealing evidence, the fruits or tools of a crime, contraband, or a weapon that would not otherwise be discovered. **A supervisor must authorize a strip search prior to being conducted.** A strip search will only be conducted using two deputies/employees of the same gender as the arrestee being searched. When a strip search is conducted, a detailed report will be submitted to your Commander prior to the end of the deputy's tour of duty.

1. This report will contain details of the reasonable suspicion leading to the strip search,
2. date and time of the strip search,
3. specific arrestee information,
4. how the strip search was conducted,
5. who was present when the strip search was conducted,
6. what evidence or contraband was found, if any.

A strip search will be conducted in the appropriate restroom for the gender of the arrestee, away from the view of persons other than the arrestee and the two deputies/employees conducting the search. If an article, (considered to be evidence, contraband, or a weapon), is observed protruding from a body cavity while conducting a strip search, the article may be seized by the personnel conducting the strip search.

B. Body Cavity Search: If a deputy has probable cause to believe that an arrestee is concealing evidence, fruits or tools of a crime, contraband, or a weapon in a body cavity, the State's Attorney's Office will be consulted regarding the need for a Search and Seizure Warrant prior to a body cavity search being conducted, unless there is a life threatening situation. If the deputy believes the concealment of these items is causing a life-threatening situation, the arrestee will be transported immediately to the hospital for medical evaluation. Medical personnel will be used to conduct all body cavity searches, with the exception of an article in plain view when a strip search is conducted. A deputy of the same gender will be present when the body cavity search is conducted, to take possession of any evidence, contraband, or weapons found.

1. Body Cavity Searches necessary to prevent a life threatening situation will be authorized by a supervisor prior to transport to the hospital.

- a. Non-life threatening body cavity searches will be conducted at the hospital by medical personnel only after obtaining a Search and Seizure Warrant signed by a Judge.
2. A written report will be submitted to your Commander prior to the end of the deputy's tour of duty when a body cavity search has been conducted. The following items will be made a part of this report:
  - a. Probable cause to support the need for a body cavity search.
  - b. Documentation of the State's Attorney Office verbal or written authorization, or Search and Seizure Warrant attached.
  - c. Full information on the arrestee involved.
  - d. Information on all personnel involved in the arrest, transportation, or otherwise involved in the body cavity search, to include medical personnel.
  - e. Date, time, and location the body cavity search was conducted.
  - f. Information on any evidence, contraband, or weapons found as a result of the body cavity search.

#### **1.2.8.2 Procedures for conducting strip and body cavity searches by Detention Deputies**

- A. STRIP SEARCH - No strip search shall be authorized or conducted unless a thorough frisk search and a thorough clothing search do not satisfy the safety, security, or evidentiary concerns of the Detention Center. When circumstances permit, authorization from a security supervisor will be obtained prior to conducting a strip search. A strip search conducted on the basis of the searching officer's reasonable suspicion will be documented on a "Strip Search Authorization" form, signed by a security supervisor, and forwarded to the Captain of Operations who after review will forward the form to records for placement in the inmate's case file.
  1. A Strip Search will be conducted in a private and professional manner:
    - a. On an inmate transferred from another facility (at Intake).
    - b. On a felony charge or conviction for a violent offense, an offense involving escape, an offense involving the use of a

deadly weapon, or possession of a controlled substance.  
(Reasonable Suspicion).

- c. After an inmate returns from an outside work assignment or program where he/she had access to contraband.
- d. When an inmate is apprehended after an escape or escape attempt.
- e. After an inmate participates in a disturbance or riot.
- f. Just before and after an inmate is transported.
- g. Anytime a reasonable suspicion exists that the inmate is in possession of contraband that cannot be discovered through a less intrusive type of search.

#### B. STRIP SEARCH PROCEDURE

- 1. Take the inmate to the Search/Shower Room or other private search area.
- 2. Order the inmate to remove his/her shoes and socks (if at intake, shower shoes will be issued and confiscate shoes for placement in the inmate's property bag).
- 3. Order the inmate to remove all clothing except: underpants if the inmate is a male; panties and bra if the inmate is a female.
- 4. Order the inmate to remove all personal appliances and prosthetics if their removal does not interfere with the inmate's health and safety. Physically and visually examine these items.
- 5. Order the inmate to run his fingers through his hair and shake it. Look at the back of his neck and behind his ears.
- 6. Physically examine the inmate's clothing and shoes including seams, pockets, zippers, etc.
- 7. Order the inmate to remove his underpants if male, panties and bra if female, and physically examine the clothing items.
- 8. Visually examine the body; i.e., mouth, armpits, ears, nose, groin, and buttocks. Look between fingers and toes. Look at palms of the hands, soles of the feet, and behind the neck in cases where the inmate has shoulder length hair.

#### C. SEARCH LOG FOR TRANSPORTED INMATES

1. Strip Searches conducted on inmates in line with this policy will be documented on a “Search Log for Transported Inmates”.
2. Deputy conducting such searches will be responsible to complete the log immediately after the search.
3. The log will be completed to include the following information:
  - a. The name and DC# of the inmate;
  - b. The inmate’s destination, dates and time of departure and return;
  - c. Date and time of each search; and,
  - d. The name of the searching deputy.

**D. VISUAL BODY CAVITY SEARCH**

1. A Visual Body Cavity Search will be conducted when reasonable suspicion exists that an inmate has dangerous contraband such as drugs, weapons/escape tools that would be undetected through a less intrusive type of search.
2. A Visual Body Cavity Search will only be conducted upon authorization of a security supervisor and will be documented on a “Strip Search Authorization” form, signed by the authorizing security supervisor, and forwarded to the Captain of Operations who after review will forward the form to records for placement in the inmate’s case file.
3. A Visual Body Cavity Search will be conducted in private by a deputy who is the same sex as the inmate being searched.

**E. VISUAL BODY CAVITY SEARCH PROCEDURE**

1. Take the inmate to the Search/Shower Room or other private search area.
2. Order the inmate to remove all clothing except: underpants if the inmate is a male; panties and bra if the inmate is a female.
3. Order the inmate to remove all personal appliances and prosthetics if their removal does not interfere with the inmate’s health and safety. Physically and visually examine these items.
4. Order the inmate to run his fingers through his hair and shake it. Look at the back of his neck and behind his ears.

5. Physically examine the inmate's clothing and shoes including seams, pockets, zippers, etc.
6. Order the inmate to remove his underpants if male, panties and bra if female, and physically examine the clothing items.
7. Visually examine the body; i.e., mouth, armpits, ears, nose, groin, and buttocks. Look between fingers and toes. Look at palms of the hands, soles of the feet, and behind the neck in cases where the inmate has shoulder length hair.
8. A male inmate will then be instructed to spread his legs and lift his testicles with one of his hands, for examination of the groin area. A female inmate will be instructed to spread her legs for inspection of the groin area, and then lift her breasts one at a time for inspection.
9. Instruct the inmate to turn around and face the wall, then bend over and spread the cheeks of his/her buttocks while coughing at least twice

#### F. PHYSICAL BODY CAVITY SEARCH

1. A Physical Body Cavity Search will be conducted when a reasonable suspicion exists that an inmate has dangerous contraband such as drugs, weapons/escape tools concealed in the body cavity that would be undetected through a less intrusive type of search.
2. A Physical Body Cavity Search will only be conducted by a qualified health care professional at the Washington County Hospital when ordered by the Warden or designee.
3. A Physical Body Cavity Search will be conducted in private with a deputy present who is the same sex as the inmate being searched.
4. A Physical Body Cavity Search will be reported to the Captain of Operations by the Security Supervisor on an "Incident Report".

### 1.2.9 Directive on Bias Based Profiling

#### A. Definitions:

Biased Based Profiling - The selection of individuals based solely on a trait common to a group for enforcement action. This includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identification group.

Enforcement Action - Activities both on and off duty, undertaken by Patrol or Judicial law enforcement personnel that arise from the authority related to employment, oath of office, state statute, Federal law or county ordinance. Activities such as traffic contacts, field contacts, arrest, investigations, searches, asset seizure and forfeiture, and general law enforcement contact with citizens.

- B. As outlined in the Washington County, Code of Ethics, the Sheriff's Office prohibits biased based profiling when dealing with the public including but not limited to the following situations:
  - 1. Traffic Contacts
  - 2. Field Contacts
  - 3. Search and Seizure
  - 4. Asset Seizure and Forfeiture
- C. The Sheriff's Office provides biennial training to Patrol and Judicial Deputies in bias based profiling issues to include legal aspects.
- D. The Sheriff's Office will investigate complaints of bias based profiling and will take corrective measures if biased based profiling was determined to have occurred.
- E. Internal Affairs will conduct an annual administrative review of agency practices to include citizen concerns. This review will be forwarded to the Sheriff.
- F. Refer to the Guidance Memorandum [Ending Discriminatory Profiling in Maryland](#) from the Attorney General of Maryland – August 2015.