

# La Plata Police Department -General Orders

	Title: <b>Legally Mandated Authority</b>		Order #: <b>316</b>	
	Effective Date: May 15, 2014		Review Date:	
	<input checked="" type="radio"/> New		<input type="radio"/> Amends	
Approved by: <b>Chief Carl Schinner</b>			CALEA 5 <sup>th</sup> Edition	
CALEA Standard: 1.2.1 1.2.2			Pages: 7	

**01 POLICY:** It is the policy of the La Plata Police Department that all members observe Constitutional requirements in the discharge of their duties as prescribed by statute, common law and the Town Code of La Plata.

**02 PURPOSE:** The purpose of this Order is to acknowledge that officers are vested with a wide range of authority and power granted to them by statute, common law, ordinances and the Town Code of La Plata.

**03 POLICE OFFICER DUTIES DEFINED:**

**A.** Maryland Annotated Code, Article 41, Section 4-201 defines “police officer” as a person who has the authority to enforce the general criminal laws of this state and is a member of any of the following law enforcement units:

1. Department of State Police;
2. Baltimore Town Police Department;
3. Police department, bureau, or force of a county;
4. Police department, bureau, or force of an incorporated Town or town;
5. Mass Transit Administration Police Force, the Maryland Port Administration Police Force of the Department of Transportation, or the Maryland Transportation Authority Police Force;
6. Police Force of the University of Maryland or Morgan State University;

7. Sheriff’s department of any county or Baltimore Town;

8. Natural Resources Police Force or the Forest and Park Service Police Force of the Department of Natural Resources;

9. Security Force of the Department of General Services; or state, county or municipality security force if the special police officers are appointed under the provision of 4-901 of this article;

10. Housing Authority of Baltimore Town Police Force;

11. Baltimore Town School Police Force;

12. Crofton Police Department;

13. Department of Labor, Licensing and Regulation Police Force; or,

14. The Washington Suburban Sanitary Commission Police Force.

**B.** “Police officer” includes;

1. A Member of the Field Enforcement Division of the Comptroller’s Office;
2. A State Fire Marshall or a full-time investigative inspection assistant of the Office of the State Fire Marshall; and,
3. An investigator of the Internal Investigative Unit of the Department of Public Safety and Correctional Service.

- C. Maryland Annotated Code, Transportation Article, Section 11-147 defines “police officer” as an officer authorized to direct or regulate traffic or to make arrests for violations of any of the provisions of the Maryland Vehicle Law, or of local or other traffic laws or regulations.

**04 TOWN CHARTER:**

- A. The Town of La Plata shall have all the powers granted in express words under the Constitution and laws of the State of Maryland, including but not limited to Article 23A of the Annotated Code of Maryland for exercise by municipalities, and those necessarily or fairly implied in or incident to the powers expressly granted, together with any and all powers essential to the accomplishment of the declared objects and purpose of the corporation.
- B. Section 4-3 of the La Plata Charter bestows on the Department the following powers and duties:
  - 1. Maintenance of law and order within the Town;
  - 2. Enforcement of animal control laws;
  - 3. Enforcement of ordinances and regulations pertaining to taxicabs; and,
  - 4. Enforcement of all provisions of the Town Charter, Town Code and other ordinances and laws for which no other enforcement authority is designated.

**05 ENFORCEMENT OF LAWS GENERALLY:**

- A. Officers shall enforce the applicable laws of:
  - 5. The Town of La Plata;
  - 6. The State of Maryland; and,

- 7. The United States of America.

- B. Officers enforcing these laws shall take the appropriate enforcement action given the circumstances of the situation which may range from a warning, to a citation, to a physical arrest.
- C. Officers shall enforce applicable laws during mutual aid or while exercising limited statewide jurisdiction.

**06 GENERAL AUTHORITY:**

- A. Authority to take a juvenile into custody. Officers are authorized to take juveniles into custody, pursuant to the provisions of Section 3-814 of the Courts and Judicial Proceedings Article of the Maryland Annotated Code under the following circumstances:
  - 1. If the officer has reasonable ground to believe that the juvenile has runaway from his parent(s), guardian(s) or legal custodian(s); or
  - 2. Pursuant to the laws of arrest; or,
  - 3. If the officer has reasonable ground to believe the juvenile is in immediate danger due to his/her surroundings and his/her removal is necessary for his/her protection; or
  - 4. Pursuant to an order of the court.
- B. Authority to take a mentally disordered person into custody.
  - 1. A La Plata Police officer is authorized to take a person whom he has reason to believe has a mental disorder into custody, without a court order, pursuant to the Maryland Code Health General, Section b-620 through 10-629, if the person is:
    - a. Suffering from a mental disorder, and
    - b. Presents a danger to the life or safety of the individual or others.

- c. A La Plata Police officer is authorized to take a person into custody pursuant to the Health General Article of the Annotated Code of Maryland Section 10-622 upon receiving a court ordered petition.
  - d. When taken into custody, the person shall be transported to an approved hospital by the Maryland Department of Health and Mental Hygiene. The nearest emergency facilities are Laurel Regional Hospital and Prince George's Hospital.
- C. Authority to Arrest Fugitives:** Officers are authorized to arrest individuals who are fugitives from other jurisdictions, and return said individuals to the jurisdiction that want them in accordance with Maryland Code Criminal Procedure Title 9 "Extradition."
- D. Authority to Retake Alleged Parole Violators:** Pursuant to Maryland Code Correctional Services Title 6 Subtitle 1 §6-107, officers are authorized to arrest or "retake" an alleged parole violator.
- E. Authority to Retake Escapees:** Officer are granted the authority "authorized and required" in Maryland Code Correctional Services Title 11 Subtitle 8 §11-803, to arrest an escapee on the strength of a retake warrant issued by the administrator (or administrator's designee) of a local or regional detention facility.
- F. Interstate Fresh Pursuit-Authority to Arrest:**
  - 1. Pursuant to Maryland Code Criminal Procedures Title 2 Subtitle 3 §2-301 and Department policy, officer may engage in the fresh pursuit of a person, and exercise the authority provided in number 2 below, if the person has committed, or is reasonably believed by the officer to have committed a felony in the Town or
- has committed a misdemeanor in the officer's presence in the Town.
- 2. Under the circumstances listed above, and pursuant to Maryland Code Criminal Procedures Title 2 Subtitle 3 §2-301 and Departmental Policy, an officer engaging in the aforementioned fresh pursuit may:
    - a. Arrest a person anywhere in the State and hold that person in custody, and,
    - b. Return the person to the jurisdiction in which a court has proper venue for the criminal offense alleged to have been committed by that person.
- G. Authority to Maintain Custody of Prisoner During Transports:** Pursuant to provisions of Maryland Code Law Enforcement Procedures Title 2 Subtitle 1 §2-106, an officer transporting a defendant to a District Court Commissioner in another County, has the same authority to maintain custody as if the arrested person was being take before a District Court Commissioner in Prince George's County.
- H. Authority to Issue Maryland Traffic Citations:** Officers are authorized (when in their jurisdiction), pursuant to the transportation article of the Annotated Code of Maryland (hereafter referred to as "TA") Section 26-201, to charge a person with a violation of any of the following, if an officer has probable cause to believe that the person has committed or is committing a violation of :
  - 1. The Maryland Vehicle Laws including any rule or regulation adopted under any of its provisions;
  - 2. A traffic law or ordinance of any local authority;
  - 3. Title 9, Subtitle 2 of the Tax-General Article;

4. Title 9, Subtitle 3 of the Tax-General Article; or,
  5. Title 10, Subtitle of the Business Regulations Article.
- I. Authority to Arrest for Traffic Violations:**
1. Pursuant to the provisions of TA §26-202, an officer may arrest a person without a warrant for violation of the Maryland Vehicle Law, including any rule or regulation adopted under it, or for violation of any traffic law or ordinance of any local authority of the state, if the person has committed or is committing the violation within the view or presence of an officer, and the violation is any of the following:
    - a. A violation of TA §21-1411 or TA §22-409 relating to vehicles transporting hazardous materials;
    - b. A violation of TA §24-111 or TA §111.1 relating to the failure or refusal to submit a vehicle for weighing or to remove excess weight from it.
  2. An arrest is also authorized if a person has committed or is committing the violation within the view or presence of an officer and either:
    - a. The person does not furnish satisfactory evidence of identity or;
    - b. The officer has reasonable grounds to believe that the person will disregard a traffic citation.
  3. An arrest is authorized if an officer has probable cause to believe that the person has committed the violation, and the violation is an of the following offenses:
    - a. Driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, or in violation of an alcohol restriction;
    - b. Driving or attempting to drive while under the influence of any drug, or 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 TA §20-102 and TA §20-104, 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 TA §20-103 through TA §20-105 in the event of an accident resulting in damage to a vehicle or other property;
    - f. Any offense that caused or contributed to an accident resulting in bodily injury to or death of any person; or,
    - g. Fleeing or attempting to elude a police officer.
  4. Non-residents of Maryland may be arrested if an officer has probable cause to believe that:
    - a. The person has committed the violation; and,
    - b. The violation contributed to an accident.
  5. A person may be arrested if an officer has probable cause to

believe that the person has committed the violation, and, subject to the provisions and procedures of TA §26-203, the person is issued a citation and refused to acknowledge its receipt by signature.

**J. Authority to Arrest for Certain Offenses Based on Probable Cause:**

1. The provisions of the law which define the circumstances under which an officer may arrest must be strictly observed.
2. No person may be arrested or detained except under the authority of law.
3. An arrest is authorized either by warrant, issued by competent authority, or without a warrant in accordance with the “Laws of Arrest” as set forth hereunder:
  - a. Probable Cause to arrest exists where facts and circumstances, of which the officer has reasonably trustworthy information, would justify or lead a person of reasonable caution to believe that an offense has been committed and that the person to be arrested committed it;
  - b. Probable cause requires a reasonable belief, based on reliable evidence that the suspect has committed an offense;
  - c. Probable cause must go beyond mere suspicion, but is less than absolute certainty;
  - d. The lawfulness of an arrest is not affected by the fact that the arrested person may be found innocent later.

**K. Authority to Disregard Certain Traffic Laws in Certain Situations:** TA 21-106 allows officers who are responding to an emergency call or pursuing a violator

or suspect violator of the law, or responding to, but not while returning from, a fire alarm to:

1. Park or stand without regard to other provisions of TA, Title 21;
2. Pass a red or stop signal, a stop sign, or a yield sign, but only after slowing down as necessary for safety;
3. Exceed any maximum speed limit, but only so long as the driver does not endanger life or property; and,
4. Disregard any traffic control device or regulation governing direction of movement or turning in a specified direction.

**L. Authority to Serve Warrants and Summons:**

1. In accordance with Maryland Rule 4-212, only police officers or sheriffs are authorized to serve criminal process.
2. Pursuant to Maryland Rule 4-412, an officer serving a warrant or summons shall give the defendant a copy of it.
3. When a warrant is placed into the hands of an officer, he/she is not bound to inquire into the particulars of the complaint, or whether any was even made.
4. If the warrant is valid and issued by a person authorized to issue it, the officer’s duty is to execute service of it and not to question it.
5. The warrant, which had been issued upon the finding of probable cause, will protect the officer.
6. A warrant remains in force until it is returned as served or recalled by the Court.
7. Even if the defendant has been arrested on the strength of a warrant and escapes, he/she may be

arrested again on the same warrant, if it has not been returned.

8. Officers will not serve warrants “in blank” because they are void and therefore not valid for service.
9. A warrant will not be issued “in blank” with a view of later inserting the defendant’s name, or other information.
10. No one, other than the warrant’s issuer, has the right or authority to alter a warrant, because if altered by a third person, it would not be the warrant originally issued.

**M. Authority to Execute Search Warrants:**

1. Officers are authorized to serve/execute Search Warrants, pursuant to the provisions of Maryland Code Criminal Procedures Title 1 Subtitle 2 §1-203 and Maryland Rule 4-601.
2. A search warrant is signed and issued by a judge only, and must be executed within fifteen (15) (calendar) days from day of issuance or returned promptly to the judge.
3. A search warrant requires an officer to whom it is addressed, to search a house or other structure, or other place, therein specified, for stolen contraband, or illicit property and if same shall be found upon such search, to bring the goods so found, together with the body of the person occupying house or structure who is named, before the issuing Judge or other member of the Court.

**N. Authority to Arrest for Violations of Federal Laws:**

1. The Attorney General for the State of Maryland has rendered an opinion in Volume 6, Attorney General Opinions, 1971, pages 347-352, that Municipal and State Police Officers only have authority

to arrest for Federal Law violations in three situations, as enumerated below:

- a. A police officer has the same authority to arrest as an ordinary citizen does if the violation amounts to a “Breach of the Peace.” However, officers should be cautioned that a “Breach of Peace” has not been appropriately defined.
- b. A police officer can arrest if a violation of a federal law amounting to a felony has been committed in the officer’s presence or view.
- c. A police officer can arrest if there has been a Federal felony violation committed and the officer has a reasonable belief that the person committed the violation.

2. The Attorney General has also opined that since municipal police officers are not familiar with Federal law violations, it is best for municipal officers to contact the appropriate federal agency before invoking arrest powers.

**O. Authority to Arrest Armed Forces Deserters:**

1. The Uniform Code of Military Justice sets out, and the Federal Courts have affirmed, the authority of civil law enforcement officers to arrest deserters from the armed forces and deliver them to the branch of the service from which they deserted.
2. Officers arresting a deserter will treat the offense as a misdemeanor, unless otherwise advised.

**P. Authority to Carry and Use Weapons:**

1. Maryland Code Criminal Law Article Title 4 Subtitle 2 §4-203 prohibits persons from wearing, carrying and/or transporting

various weapons. Each of these sections contains an exception for officers of this state, and of any county or Town.

2. Officers shall only carry and use weapons which are issued and/or authorized by the Department under Order 617-Weapons.
- Q.** Authority of Reserve Officers: The La Plata Police Department does not utilize reserve officers.
- R.** Authority of Auxiliary Officers: The La Plata Police Department does not utilize auxiliary officers.