

**Lower Providence Township Police Department  
Eagleville, Pennsylvania**

**General Order** ☒  
**Special Order** ☐  
**Personnel Order** ☐

**ORDER NUMBER**

**415**

**Subject**

**Custodial Arrest**

**Date of Issue**

**January 16, 2020**

**Effective Date**

**January 16, 2020**

**Expiration Date**

**Until Amended or  
Rescinded**

**Issued by:**

**Michael Jackson, Chief of Police**

**Amends**

**Rescinds**

**All Previous Orders**

**Standard Number:**

**1.2.4**

**Distribution**

- 1. General Order Manuals**
- 2. Records Manual**
- 3. Reading Verification to all Personnel**

## **I PURPOSE**

The purpose of this directive is to insure the compliance of the Lower Providence Township Police Department with Lower Providence Township Resolution #98-06 and Act 25 of 1995 (SSI), amending Title 42 (Judiciary and Judicial Procedure), Pa. C.S. and permitting local police to make warrantless, on-view arrests of persons committing certain violations of the Title 18 (Crimes Code), Pa. C.S. The authority of a law enforcement officer to arrest an individual with or without a warrant, is governed by Title 234 (Pennsylvania Rules of Criminal Procedure); Pennsylvania statutes; and Pennsylvania and Federal court decisions.

## **II REGULATION**

- A. In addition to any other statutorily permitted warrantless arrest, officers of the Lower Providence Township Police Department shall be permitted to effect a warrantless arrest of a person violating the following provisions of Title 18, the Crimes Code:
  1. Section 5503 - Relating to Disorderly Conduct.
  2. Section 5505 - Relating to Public Drunkenness.
  3. Section 5507 - Relating to obstructing highways and other public passageways.
  4. Section 6308 - Relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages.
- B. Lower Providence Township Police Officers shall be governed by:
  1. PA Rules of Criminal Procedure: Rule 440 (Arrest without warrant) and Rule 441 (Procedure Following Arrest without warrant), and Rule 502 (Instituting Proceedings in Court Cases.)
  2. All of the following requirements:
    - a. The officer has probable cause to believe that one of the specified crimes is involved;

- b. That the defendant's conduct is ongoing;
  - c. That the conduct constituting the crime is upon the officer's view; and
  - d. That the conduct imperils the personal security of any person or endangers public or private property.
- C. Following any warrantless arrest based on a summary violation, the arresting officer(s) shall:
  - 1. Immediately transport the defendant to the Township Police Department or the Montgomery County Correctional Facility for processing and issuance of a citation;
  - 2. Process the defendant without unnecessary delay and furnish same with a copy of the citation; and
  - 3. Release the defendant, provided he/she is no longer in a position to imperil his/her personal security, or the personal security of another.
  - 4. In the case of juvenile defendants:
    - a. A timely attempt shall be made to contact a parent, guardian, or other responsible adult who shall have an interest in such juvenile.
    - b. The juvenile shall be promptly released to a parent, guardian, or other responsible adult after completion of processing and the issuance of a citation.
    - c. If, after a period of six (6) hours, a parent, guardian or other responsible adult cannot be contacted, or such shall refuse to accept custody, the officer shall contact the Juvenile Probation Department to arrange shelter for such juvenile.
- D. Warrantless Arrests for Felonies and Misdemeanors:
  - 1. Warrantless arrest is authorized when the offense is a felony, or a misdemeanor committed in the presence of the officer making the arrest.
  - 2. Warrantless arrest is authorized based upon probable cause when the offense is a felony.
  - 3. Warrantless arrest is authorized upon probable cause when the offense is a misdemeanor not committed in the presence of the officer making the arrest when such arrest without a warrant is specifically authorized by statute.
- E. Procedure in Court cases Initiated by Arrest Without Warrant:
  - 1. When an officer has arrested a defendant without a warrant in a court case, the officer shall file a complaint against the defendant and he/she shall be afforded a preliminary arraignment before the proper issuing authority without unnecessary delay.
  - 2. The arresting officer, or his/her designee, will contact the District Magistrate for the jurisdiction of arrest, or the on-call magistrate, and schedule or arrange for the defendant's preliminary arraignment under this Rule.
  - 3. When the arresting officer deems it appropriate, they shall promptly release the defendant instead of taking them for a preliminary arraignment when the following conditions have been met:
    - a. When the defendant is a resident of the Commonwealth.
    - b. When the most serious offense charged is a misdemeanor of the second degree.
    - c. When the defendant poses no threat of immediate physical harm to any other person or to himself or herself.
    - d. When the arresting officer has reasonable grounds to believe that the defendant will appear as required if the charges are instituted by summons.
    - e. Where the defendant does not demand to be taken before the issuing authority.
  - 4. In cases where the defendant is released pursuant to Rule 519, officers shall file a complaint against the defendant within five (5) days of the defendant's release. Thereafter, a summons, not a warrant of arrest, shall be issued and the case shall proceed as provided for in Pa.R.Crim.P. Rule 510.
- F. Title 234, the Pennsylvania Rules of Criminal Procedure:
  - 1. 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.

This area of the law is constantly changing. It is the responsibility of the agency and its personnel to stay informed by having current information available for review.

\* Per Township Resolution 98-06 adopted April 2, 1998

*Michael Jackson*

Michael Jackson  
Chief of Police