

	MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES	
	Subject ARREST PROCEDURES	Policy Number EA-11 Effective Date 11-05-24
Related Information Arizona Revised Statutes CP-8, <i>Preventing Racial and Other Bias-Based Profiling</i> EA-8, <i>Domestic Violence</i> EA-16, <i>Immunity</i> EA-19, <i>Juvenile Operations</i> EB-1, <i>Traffic Enforcement, Violator Contacts, and Citation Issuance</i> EE-1, <i>Execution of Criminal Process Civil Warrants</i> GC-4(S), <i>Sworn Employee Performance Appraisals & Management</i> GF-5, <i>Incident Report Guidelines</i> GI-5, <i>Voiance Language Services</i> GJ-2, <i>Critical Incident Response</i> GJ-3, <i>Search and Seizure</i> GJ-7, <i>Criminal Investigations Operations</i> GJ-9, <i>Restraint and Transportation of Prisoners and Inmates</i>	Supersedes EA-11 (04-05-22)	

PURPOSE

The purpose of this Office Policy is to establish guidelines and procedures regarding arrests, written warnings, and alternatives to arrest and confinement.

POLICY

It is the policy of the Office to ensure that all types of arrests made by deputies are conducted in a safe manner, in accordance with applicable state and federal laws, and when those alternatives to arrest are used, they are done appropriately. A deputy may summon aid from the general public to assist with effecting an arrest if the deputy determines the arrest cannot be made without assistance. Racial and bias-based profiling is strictly prohibited.

DEFINITIONS

Acceptable Identification (ID): Current identification documents such as a driver’s license, state-issued identification card, passport, consular identification card, or military identification card, which contains at a minimum the individual’s name, date of birth, sex, and a clear photograph. This also includes an Arizona Mobile ID (mID) digitized companion version of an Arizona driver’s license or identification card.

Arrest: The actual custodial restraint or temporary custody of a person based on probable cause.

Automobile Exception: An exception to the prohibition on warrantless searches that allows a deputy to search an automobile without a search warrant in cases where the deputy has probable cause to believe that the automobile contains evidence of a crime, the area of the automobile being searched might reasonably contain the evidence, and that the evidence would be disposed of if the deputy were to leave to obtain a warrant. This exception allows the deputy to search a container in the automobile only if the container might reasonably conceal the object of the search. Any search under the automobile exception is necessarily limited by what the deputy is seeking in the search.

Bias-Based Profiling: The selection of an individual for law enforcement contact or action based to any degree on an actual or perceived trait common to a group, including age, nationality/ national origin, immigration status, religious beliefs/religion, race, color, gender, culture/cultural group, sexual orientation, gender identity/expression, veteran status, ancestry, physical/intellectual or mental health disability, ethnic background, socioeconomic status, or any other identifiable group characteristic, except as part of a reliable and specific suspect description. Selection for law enforcement contact or action includes selection for a stop, detention, search, issuance of citation, or arrest. Such bias-based profiling and/or discriminatory policing is prohibited even when a deputy otherwise has reasonable suspicion or probable cause justifying the law enforcement contact or action. The establishment of reasonable suspicion and/or probable cause must remain neutral as to race and the other characteristics listed above.

Cite and Release: A case in which a person is arrested for a misdemeanor offense or a petty offense, the arresting deputy may release the arrested person from custody on site in lieu of taking the person to a law enforcement facility by use of the procedure specified in ARS 13-3903.

Criminal Offense: Conduct that gives a peace officer or prosecutor probable cause to believe that a felony, a misdemeanor, a petty offense, or a violation of a local criminal ordinance has occurred.

Criminal Process: Writs, summonses, mandates, warrants, or other process from a court of law compelling a person to answer for a felony or misdemeanor. The term also includes process issued to aid in crime detection or suppression, such as search warrants.

Exigent Circumstances: The sum of the conditions and information available in any event which, taken in totality, dictates a need for immediate action.

Extraordinary Circumstance: A circumstance which goes beyond what is usual, regular, or customary.

Fugitive of Justice (FOJ): Any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

Petty Offense: An offense for which a sentence of a fine is authorized by law.

Probable Cause: Reasonable grounds, known to the Office employee at the time, which would justify the Office employee to suspect that a person has committed or is committing a crime or that a place contains specific items connected with a crime.

Racial Profiling: The reliance on race or ethnicity to any degree in making law enforcement decisions, except in connection with a reliable and specific suspect description.

Reasonable Suspicion: Specific, objective, articulable facts and circumstances that would lead a reasonable person, based on their training and experience, to conclude a crime is occurring, or is about to occur, and that a specific individual committed or is about to commit that crime. This is held to be a lower standard than probable cause.

Search Warrant: An order in writing, issued in the name of the State of Arizona, signed by a magistrate, directed to a peace officer, commanding them to search for personal property, persons, or other items, as specified in ARS 13-3912. A search warrant may be requested by contacting a magistrate in person, telephonically, or electronically and submitting a sworn affidavit to the magistrate that sets forth facts to establish probable cause for the issuance of the search warrant, as specified in ARS 13-3914.

- A. When the property to be seized was stolen or embezzled.
- B. When the property or things to be seized were used as a means of committing a public offense.

- C. When the property or things to be seized are in the possession of a person having the intent to use them as a means of committing a public offense, or in possession of another to whom they may have delivered it for the purpose of concealing it or preventing it being discovered.
- D. When property or things to be seized consist of any item or constitute any evidence which tends to show that a particular public offense has been committed or tends to show that a particular person has committed the public offense.
- E. When the property is to be searched and inspected by an appropriate official in the interest of the public health, safety, or welfare as part of an inspection program authorized by law.
- F. When the person sought is the subject of an outstanding arrest warrant.

Status Offense: Behavior that is unlawful only because it is committed by a juvenile, such as truancy, curfew violation, possession of tobacco, or possession of or consumption of alcohol.

PROCEDURES

1. **Investigatory Detention:** Deputies must have reasonable suspicion that a person is engaged in, has committed, or is about to commit, a crime before initiating an investigatory detention.
2. **Elements of Arrests:** The essential elements of an arrest include the intent or purpose on the part of the arresting deputy, the lawful authority of the arresting deputy, seizure or detention of the arrested suspect, and the suspect understanding that they have been placed under arrest. Deputies must have probable cause to believe that a person is engaged in, has committed, or is about to commit, a crime before initiating an arrest.
3. **Bias-Free Detentions and Arrests:** Deputies are prohibited from using a person's race or ethnicity, to any degree, as a factor in establishing reasonable suspicion or probable cause to believe a person is committing, has committed, or is about to commit a crime, except as part of a reliable and specific suspect description.
 - A. Deputies are prohibited from relying on a person speaking Spanish, speaking English with an accent, or appearance as a day laborer, as factors in developing reasonable suspicion or probable cause to believe a person has committed or is committing any crime; or reasonable suspicion to believe that an individual is in the country without authorization.
 - B. Deputies shall not rely on any information received from members of the public, including through any hotline, by mail, e-mail, phone, or in person, unless the information contains evidence of a crime that is independently corroborated by the deputy. Such independent corroboration shall be documented in writing, and reliance on the information shall be consistent with all policies, as specified in Office Policy CP-8, *Preventing Racial and Other Bias-Based Profiling*.
 - C. Deputies shall be aware that a person's unauthorized presence in the United States is not a crime and does not itself constitute reasonable suspicion or probable cause to believe that the person is committing, has committed, or is about to commit a violation of any state, county, or local statute, law, or ordinance.
 - D. Deputies shall not detain any individual based on actual or suspected unlawful presence without probable cause that the individual is committing, has committed, or is about to commit, a criminal violation of any state, county, or local statute, law, or ordinance.

- E. Unless the deputy has probable cause to believe the individual is committing, has committed, or is about to commit a criminal offense; and reasonable suspicion that the person is in the country unlawfully, deputies are prohibited from:
1. Questioning any individual as to their alienage or immigration status;
 2. Investigating an individual's identity or searching the individual in order to develop evidence of unlawful status;
 3. Detaining an individual while contacting U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP) with an inquiry about immigration status or awaiting a response from ICE/CBP beyond the time that is necessary to address the original purpose for the stop and/or to resolve any apparent criminal violation for which the deputy has or acquires reasonable suspicion or probable cause to believe has been committed, is being committed, or is about to be committed; or
 4. Deputies are prohibited from transporting or delivering an individual to ICE/CBP custody from a traffic stop unless a request to do so has been voluntarily made by the individual.
- F. Deputies are required, before any questioning as to alienage or immigration status is initiated, or before any contact with ICE or CBP is initiated, to check with a supervisor to ensure that the circumstances justify such an action, as specified in Office Policy EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*, and receive approval to proceed with questioning. Deputies must also document in every such case on the *Vehicle Stop Contact Form (VSCF)* and/or the *Incident Report (IR)*:
1. The reason or reasons for making the immigration-status inquiry or contacting ICE/CBP;
 2. The time supervisor approval was received;
 3. When ICE/CBP was contacted;
 4. The time it took to receive a response from ICE/CBP, if applicable; and
 5. Whether the individual was then transferred to ICE/CBP custody.
- G. Deputies shall notify a supervisor before initiating any immigration-related investigation and before effectuating an arrest following any immigration-related investigation or for an immigration-related crime, or for any crime related to identity fraud or lack of identifying document.
1. Supervisors shall approve or disapprove the deputy's investigation or arrest recommendation based on available information and in accordance with Office Policy, EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*.
 2. Supervisors shall take appropriate action to address any deficiencies in the deputy's investigation or arrest recommendations, including releasing the suspect, recommending non-disciplinary corrective action for the involved deputy, and/or referring the incident for administrative investigation.
4. **Quotas:** The Office prohibits the use of quotas, whether formal or informal, for stops, citations, detentions, or arrests. This prohibition does not pertain to review of deputy activity for the purpose of assessing overall

effectiveness in completion of job tasks or assessing whether a deputy is engaging in unconstitutional policing.

5. **Required Fingerprinting:** Arizona Revised Statutes (ARS) require that suspects be fingerprinted who are arrested, convicted, or summoned to court for any felony offense, any misdemeanor crimes of domestic violence, any sexual offense, or DUI offenses. This process only applies to suspects arrested, who are eligible to be released, and through a notice to appear and complaint, such as a cite and release. The arrested suspect shall not be released until the person provides a right index print on the *Mandatory Fingerprint Compliance Form*.
 - A. The arresting deputy shall provide the canary court copy and the pink defendant copy of the form to the arrested suspect. The form includes instructions to the suspect on where and when to report for mandatory ten-print fingerprinting. The arresting deputy shall explain the form to the suspect and then sign the form. The suspect is also required to sign the form indicating receipt and that they received an explanation from the deputy.
 - B. The deputy shall retain the original bearing the fingerprint of the arrested suspect. The original shall be scanned and attached to the IR or Supplement within the TraCS application. The original shall then be attached to the notice to appear and complaint, such as a Citation in Lieu of Detention (Cite and Release) and forwarded to the appropriate court or Maricopa County Attorney's Office (MCAO), along with the notice to appear and the complaint.
6. **Adult Arrests:** There are two different types of adult arrests, which include arrests with a warrant and arrests without a warrant based on probable cause.
 - A. Arrest on a Warrant: Adult arrest warrants shall be executed only by sworn personnel. Information concerning felony or misdemeanor warrants may be obtained through the Communications Division, Criminal Process Section, or the Operations Information Center (OIC) of the Records and AFIS Division.
 1. Prior to arresting a suspect on a warrant, the arresting deputy shall contact OIC through the Communications Division, to verify the active status of the outstanding arrest warrant and confirm the identity of the suspect to be arrested.
 - a. Acceptable Identification (ID) used, such as, but not limited to, a driver's license, passport, or military ID, may contain at least the name, date of birth, sex, and either a clear photograph or a second numerical identifier, such as a Social Security Number (SSN).
 - b. The arresting deputy is not required to have the warrant in their possession at the time of the arrest. However, if requested, it shall be shown to the suspect as soon as possible, after the arrest.
 - c. A deputy shall arrest a suspect with an out-of-county or out-of-state felony or misdemeanor warrant only after it has been determined that the originating agency confirms they will extradite the suspect.
 2. Once a warrant has been verified through OIC and the suspect is arrested, the arresting deputy or the Communications Division shall notify OIC of the arrest.
 - a. OIC personnel shall remove the warrant from the files, delete it from the Arizona Crime Information Center (ACIC) or National Crime Information Center (NCIC)

- computer system, and fax a copy of the warrant, with the OIC stamp, to the jail facility where the suspect is being booked.
- b. The arresting deputy shall sign the fax copy of the arrest warrant and submit it with the other required arrest forms.
 - c. Warrant copies which have not been faxed by OIC and do not display the OIC stamp are insufficient for booking purposes.
 - d. The deputy shall include a brief synopsis or comment on the Release Questionnaire (Form IV) indicating an arrest warrant was served.
3. Deputies shall complete an IR when an arrest is made, as specified in Office Policy GF-5, *Incident Report Guidelines*. Documentation shall be made in Computer-Aided Dispatch (CAD) when the Office provides assistance to another law enforcement agency by transporting, processing, and booking a suspect with an arrest on a warrant.
- a. Arrest warrant IRs shall:
 - (1) Include the Face Sheet only with a brief synopsis of the incident;
 - (2) Include the probable cause for the arrest;
 - (3) Note whether a body-worn camera was in event mode;
 - (4) Identify the proper event code; and
 - (a) 250C – Civil Arrest Warrant;
 - (b) 250F – Felony Warrant;
 - (c) 250J – Fugitive of Justice (FOJ) Warrant;
 - (d) 250M – Misdemeanor Warrant;
 - (e) 250W – Child Custody Writ (warrant use only); or
 - (f) 250Z – Attempt Warrant Arrest.
 - (5) Identify the proper disposition code.
 - (a) 2A – Shall be used indicating an IR has been generated on a warrant arrest when no new charges are being filed.
 - (b) 6A – Shall be used on a FOJ warrant indicating an offense report has been generated and the suspect has been booked for violation of ARS 13-3842.
 - b. Warrant arrests made by other law enforcement agencies and turned over to the Office for transporting, processing, and booking, and for which the Office is not confirming on the warrant and affirming status as the arresting agency requires no IR and shall be processed as an assist to other agencies. An example would be a

patrol deputy providing prisoner transport assistance for another agency not equipped with a caged vehicle. The following event code and disposition code shall be used when documenting the assist in CAD as no IR will be generated:

- (1) Event code: 907 – Assist other Agency; shall be used with the corresponding sub-type for the appropriate arresting agency from which the suspect was received.
- (2) Disposition code: 9 – Assist To/Turned Over to Other Agency; shall be used indicating the assist to other agency is complete.
- (3) The use of a body-worn camera during the event shall be noted in CAD.

B. Arrest Without a Warrant: A deputy may arrest an adult suspect without a warrant when:

1. A felony has been committed and there is probable cause to believe the suspect has committed the felony;
2. A misdemeanor has been committed and there is probable cause to believe the suspect has committed the misdemeanor. A person arrested under this subsection is eligible for a citation in lieu of detention unless otherwise specified in this policy;
3. The suspect has been involved in a traffic accident and has violated any criminal section of ARS Title 28, and such violation occurred prior to, or immediately following, the traffic accident. The Arizona Traffic Ticket and Complaint shall be completed when the suspect is either cited and released or booked into jail. When exigent circumstances exist, such as a DUI investigation, and no enforcement action is taken due to pending furtherance of an investigation such as toxicology results or charges submitted to the Maricopa County Attorney's Office (MCAO), the driver may be released with an *MCSO Incidental Contact Receipt*. The deputy shall select *Pending Further Investigation* from the receipt dropdown list; or
4. There is probable cause to believe that the suspect has committed a petty offense in the deputy's presence. Deputies may use discretion in considering a cite and release, as specified in this Office Policy.

7. **Juvenile Arrests:** In addition to the procedures listed under adult arrest, deputies shall be aware that the arrest of juveniles is subject to special legal requirements. A responding deputy may conduct a basic investigation in order to obtain parental consent, obtain a warrant or court order, or determine if exigent circumstances exist. Deputies shall be familiar with and observe these special requirements at all times when arresting juveniles. Office personnel may review Office Policy EA-19, *Juvenile Operations*, for detailed information regarding juvenile arrests.

A. If a juvenile is arrested on new charges, the deputy shall submit a Juvenile Referral form to the MCAO, Juvenile Division; or the juvenile shall be taken to the Juvenile Detention Assessment Center (JDAC) for booking unless a remand order for sentencing has been issued. The MCAO, Juvenile Division has 24 hours to determine whether a juvenile shall be charged as a juvenile or an adult.

1. If it is determined by the deputy that the crime does not warrant detention of the juvenile, the deputy shall complete an IR and a Juvenile Referral form and submit it to the Maricopa

County Attorney's Office, Juvenile Division for prosecution consideration. This process shall be followed in the absence of an order of remand for the juvenile.

2. If JDAC does not accept the arrestee for whatever reason, an IR shall be completed along with a *Juvenile Referral* form. Both documents shall be forwarded to the MCAO Juvenile Division for prosecution consideration.
 3. If a determination is made to charge the juvenile as an adult, the appropriate paperwork shall be completed by the MCAO Juvenile Charging Attorney, and the juvenile shall be transferred to the Intake, Transfer and Release (ITR) facility from JDAC, by juvenile detention personnel. The arrest paperwork shall be completed by JDAC personnel prior to booking.
 4. If a remand order for sentencing has been issued, the juvenile shall be taken to the ITR facility for booking.
- B. Juvenile Warrants: A person who has not reached the age of 18 and has an outstanding juvenile warrant shall be handled in the following manner:
1. In the absence of a remand order, the JDAC Intake Officer shall be contacted to ascertain if JDAC shall incarcerate.
 2. If the JDAC Intake Officer refuses to accept the juvenile, they shall be released. At the discretion of the deputy, the juvenile may be released to the following:
 - a. A parent;
 - b. A guardian;
 - c. A family member; or
 - d. Department of Child Safety (DCS).
 3. The refusal of the JDAC Intake Officer to accept the juvenile shall be documented in an IR explaining the circumstances.
- C. Juvenile warrants issued through juvenile court may be automatically quashed on the date the person reaches 18 years of age, as the jurisdiction of the Juvenile Justice Court ceases under ARS. In the event the warrant has not been quashed, the person shall not be arrested solely on the basis of the juvenile warrant. An IR shall be written and forwarded to the Criminal Process Section documenting the fact that the warrant was not quashed.
- D. Juveniles Remanded on Adult Arrest Warrants: Juveniles who are arrested on an adult arrest warrant from Superior Court shall be taken directly to the ITR facility and booked. The adult arrest warrant signifies that the juvenile has been previously remanded by a judge on that case.
- E. Status Offenses: When a juvenile has committed a status offense, the juvenile may be cited or returned to the custody of a parent or guardian.
- F. Justice of the Peace (JOP) Misdemeanor Warrant for Juveniles: Misdemeanor warrants for juveniles issued by a JOP court shall not be served, as such courts do not have the legal authority to issue warrants for the arrest of juveniles.

1. When a JOP misdemeanor warrant for a juvenile is discovered, an IR shall be written documenting the fact that the warrant could not be served.
 2. The IR and a memorandum shall be forwarded to the Criminal Process Section Commander. Criminal Process shall notify the appropriate JOP Court of the improper issuance of the warrant.
8. **Alternatives to Arrest:** A deputy may, at their discretion, use alternatives to arrest when the offense committed is a misdemeanor or petty offense.
- A. **Written Warning:** When the victim is the State of Arizona, a deputy may issue a warning for minor infractions, if they feel the interests of the violator, the citizens of Maricopa County, or the law would best be served if the suspect were not arrested.
 - B. **Citation in Lieu of Detention (Cite and Release):**
 1. A cite and release may be used when the elements of a misdemeanor or petty offense arrest are present. The suspect may also be photographed, fingerprinted, and searched, as in a detention arrest (arrested and booked into jail).
 - a. A cite and release may be issued for a misdemeanor or petty offense committed by an adult, unless otherwise prohibited by this policy.
 - b. Only the violator, or the reasonably suspected violator, including any driver or passenger, found, or suspected to be in violation of a criminal offense of any state, county, or local statute, law or ordinance, or federal criminal law, may be required to provide their name and address or produce identifying documents.
 - c. Other passengers in the vehicle, **not** found or suspected to be in violation of a criminal offense of any state, county, or local statute, law or ordinance, or federal criminal law, may be requested to provide their name and address or produce identifying documents, but such requests shall not be required or demanded, and no law enforcement action shall be taken because of a refusal to provide their name and address or produce identifying documents.
 - d. A juvenile may be issued a citation in lieu of detention. Statutory violations for which a citation may be issued include, but are not limited to, curfew, boating, alcohol, game and fish, misdemeanor traffic violations, marijuana, tobacco, and violations of certain town and county ordinances. Procedures for cite and release of a juvenile shall be followed, as specified in Office Policy EA-19, *Juvenile Operations*.
 - e. When there is a lawful citizen's arrest and the arresting citizen insists that the person be arrested and booked, the deputy retains the right to use discretion and issue a cite and release in lieu of detention.
 2. A cite and release shall not be used in the following circumstances:
 - a. When an adult suspect refuses to sign a criminal citation;
 - b. When a felony offense has occurred;

- c. When the suspect refuses to provide their name and address for the citation;
 - d. When the suspect has an outstanding warrant;
 - e. When the suspect has a record of failure to appear;
 - f. When there is immediate danger to the public;
 - g. When other violations are likely to occur;
 - h. When an act of domestic violence or an Order of Protection violation has occurred, as specified in Office Policy EA-8, *Domestic Violence*; or
 - i. When the suspect states their intention not to appear.
3. When the suspect's identity and residence cannot be adequately determined, the suspect is not eligible for cite and release. If the suspect is otherwise eligible for cite and release, as specified in this Office Policy, the suspect's presentation of any photographic identification that accurately identifies the suspect shall allow the suspect to be eligible for cite and release. Acceptable forms of identification for this purpose may include, but are not limited to:
- a. Valid or expired Arizona driver's license or identification card;
 - b. Arizona Mobile ID (mID);
 - c. Valid or expired driver's license or identification card from any state or country;
 - d. Valid or expired U.S. passport;
 - e. Valid or expired passport from any country;
 - f. Valid Consular Identification Card;
 - g. Valid or expired U.S. military photo identification card;
 - h. Valid permanent resident or employment authorization card issued by the U.S. government;
 - i. Valid or expired Native American Tribal identification/enrollment card containing a photo;
 - j. Valid Border Crossing Card (Mexico or Canada); and
 - k. Valid high school identification card, if the person is under the age of 18 and does not possess any other acceptable identification.
4. This list does not prohibit deputies from citing and releasing a suspect if they can adequately identify a suspect by some other reliable means, as long as the exercise of discretion complies with Office Policy CP-8, *Preventing Racial and Other Bias-Based Profiling*.

- C. **County Attorney Submittal Form (Long-Form):** A County Attorney Submittal Form (long-form misdemeanor or felony submittal) may be used by a deputy to submit misdemeanor and/or felony cases to the MCAO when appropriate, or if a decision not to arrest the person has been made.
 - D. **Town Prosecutor Submittal Form (Long-Form):** A form used by a deputy to submit misdemeanor cases to the appropriate contract town attorney when appropriate, or if a decision not to arrest the person has been made.
9. **Searches:** Deputies are authorized to conduct several different forms of searches to affect an arrest or incident to arrest, as specified in Office Policy GJ-3, *Search and Seizure*. Such searches include, but are not limited to, the following:
- A. **Search for Suspect:** When attempting to serve a felony arrest warrant at the home of the named suspect, deputies may search the premises for the wanted person without a search warrant, if there is reason to believe that they are at their residence.
 - 1. Once the suspect is located, deputies may make a protective sweep of the premises or a cursory visual inspection of those places in which a person may be hiding, for the limited purpose of discovering persons or weapons on the premises, that may present a danger to the deputies.
 - 2. When conducting a protective sweep incident to the arrest, deputies may look in closets and other spaces immediately adjoining the place of arrest, from which an attack could be immediately launched. This may be done even though the deputies lack probable cause, or even reasonable suspicion, to suppose that such an attack might occur.
 - 3. Deputies may conduct a protective sweep through portions of the premises, other than the closets and other spaces immediately adjoining the place of arrest, if there are articulable facts which, taken together with the rational inferences from those facts, would warrant a reasonably prudent deputy to believe that the area to be swept harbors an individual posing a danger to those on the arrest scene.
 - 4. If, during a lawful protective sweep, evidence is discovered in plain view, such evidence may be seized. Any further search for evidence, if additional contraband is believed to be present, shall be done only after the issuance of a search warrant.
 - B. **Search Incident to Arrest:** Warrantless search incidents to a lawful arrest are valid to seize weapons or other articles which might be used to attack the deputy; to prevent a suspect's escape; to prevent the destruction of the fruits or instrumentalities of the crime for which the arrest was made; or evidentiary items of the crime for which the arrest was made. These searches are a valuable tool for ensuring the safety of deputies and securing evidence.
 - 1. Deputies shall have probable cause to place a person under arrest and intend to arrest the individual before a search is conducted. Deputies can search the arrestee's person, possessions in their immediate control, and a designated area near the arrestee.
 - 2. A search for items beyond the person must be limited to those areas which remain within the reach of the arrestee. Reach is not confined to arm's length but includes the areas reachable by the person if they were to make a lunge or quick move to gain possession of a weapon or destroy evidence.

3. If it is necessary for the person arrested to move about after their arrest, to put on clothing or assemble belongings, those areas to which they continue to have access may also be searched for weapons or destructible evidence.
 4. When deputies have reason to believe a vehicle contains evidence of the offense for which the person is being arrested, deputies may search the interior and passenger compartments of the vehicle where evidence could be located or may conduct a search of the vehicle when within proximity and contemporaneous incident of the person being arrested. Glove compartment or any other compartment whether locked or unlocked and all containers found within the interior of the vehicle shall require a search warrant, unless the warrantless automobile exception exists, as specified in Office Policy GJ-3, *Search and Seizure*. This does not prohibit deputies from conducting an inventory of the vehicle upon impound.
- C. Search Warrant: A search for the subject of an arrest warrant, at a location other than their residence, can only be conducted with a search warrant or within the limitations set forth in state law or federal law, or as specified in Office Policy GJ-3, *Search and Seizure*, to include consent searches and exigent circumstances.
10. **Assistance to Probation and Surveillance Officers:** The Office shall provide assistance to probation and surveillance officers when a request is made. The probation or surveillance officer must be physically present at the location where the assistance of the Office is requested. Arrests made by probation or surveillance officers, using the resources of the Office, shall be processed by the probation or surveillance officers.
- A. When to Assist Probation or Surveillance Officers: Probation or surveillance officers may receive assistance under one or more of the following situations:
1. When arresting a probationer with an outstanding warrant and resistance or danger of physical violence is anticipated;
 2. When exigent circumstances require the immediate warrantless arrest of a probationer and there is a likelihood of resistance or danger of physical violence;
 3. When serving a search warrant or conducting a warrantless search of a probationer's person or residence and there is a likelihood of resistance or danger of physical violence. Deputies shall be primarily concerned with maintaining peace and shall avoid becoming actively engaged in the search; and/or
 4. When probationers or other persons become disruptive, or the threat of physical violence is present.
- B. Deputy Responsibilities and Precautions: Although adult probation and surveillance officers have the authority of peace officers in the performance of their duties, they do not have the same level of law enforcement training as police officers and may not be authorized to carry a firearm in the performance of their official duties. Deputies shall exercise extreme caution and shall ensure sufficient personnel are present when assisting probation and surveillance officers.
- C. Verifying a Probation Arrest: When assisting a surveillance officer, deputies shall verify the arrest has been approved by a probation officer.

- D. Transport and Booking: Deputies shall transport the arrested probationer to a jail facility. However, probation officers shall complete proper booking documentation at the jail facility.
- E. New Charges against Probationer: When new charges are sought against a probationer or other persons, incidental to an arrest, deputies shall take custody of the suspect, complete all necessary paperwork and evidence impounding, and book the suspect. A copy of the probation officer's report shall be completed and forwarded to the arresting deputy, to be included with the IR.
11. **Arrest of a Foreign National:** Anytime a foreign national is arrested as an adult, or detained as a juvenile at JDAC, the arresting deputy shall advise the suspect of the right to have their consular officials notified. For countries requiring mandatory notification; deputies shall notify the consul regardless of the suspect's wishes. These notifications are in addition to Miranda Rights and apply to all custodial arrests. While it is required that the consulate be notified without delay, the State Department does not recommend delaying interviews or investigations pending the notification. If the suspect proclaims or there are reasonable grounds to believe the suspect is a foreign national, deputies shall comply with the following:
- A. Mandatory Notifications: The following countries and jurisdictions require mandatory notification. The telephone and fax numbers for consular notification may be obtained from the Communications Division or at the following website: <http://travel.state.gov>.
- | | |
|---------------------|----------------------------------|
| Albania | Macao (China) |
| Algeria | Malaysia |
| Antigua and Barbuda | Malta |
| Armenia | Mauritius |
| Azerbaiyán | Moldova |
| Bahamas | Nigeria |
| Barbados | Philippines |
| Belarus | Poland (non-permanent residents) |
| Belize | Romania |
| Brunéi | Russia |
| Bulgaria | Saint Kitts and Nevis |
| China | Saint Lucia |
| Costa Rica | Saint Vincent and the Grenadines |
| Cyprus | Seychelles |
| Czech Republic | Sierra Leone |
| Dominica | Singapore |
| Fiji | Slovakia |
| Gambia | Tajikistan |
| Georgia | Tanzania |
| Ghana | Tonga |
| Grenada | Trinidad and Tobago |
| Guyana | Tunisia |
| Hong Kong (China) | Turkmenistan |
| Hungary | Tuvalu |
| Jamaica | Ukraine |
| Kazakhstan | United Kingdom |
| Kiribati | Uzbekistan |
| Kuwait | Zambia |
| Kyrgyzstan | Zimbabwe |
1. Mandatory Advisories: For countries requiring mandatory consular notification, deputies shall advise the suspect of the right to have the consular officials notified and then fax the

Arrest/Detention of Foreign National Notification Form to the Consular Officer. Deputies may comply with the requirement of notifying the suspect by reading or paraphrasing the following statement to the foreign national prior to interviewing them. Deputies may utilize the Voiance Language Services for assistance in translating, if necessary and follow the procedures specified in Office Policy GI-5, *Voiance Language Services*.

- a. **English:** “Because of your nationality, we are required to notify your country’s consular officers here in the United States that you have been arrested or detained. We will do this as soon as possible. In addition, you may communicate with your consular officers. You are not required to accept their assistance, but your consular officers may be able to help you obtain legal representation and may contact your family and visit you in detention, among other things. Please sign to show that you have received this information.”
 - b. **Spanish:** “Debido a su nacionalidad, estamos obligados a notificar a los funcionarios consulares de su país en los Estados Unidos, que usted ha sido arrestado o detenido. Haremos esta notificación lo más pronto posible. Al mismo tiempo, usted puede comunicarse con los funcionarios consulares de su país. Usted no está obligado a aceptar ayuda, pero esos funcionarios pueden ayudarle, entre otras cosas, a conseguir asesoramiento legal, y también pueden ponerse en contacto con su familia y visitarlo en el lugar de detención. Por favor firme para indicar que ha recibido esta información.”
2. Documentation of Notification: The notification and response shall be documented in the IR for any foreign national, whether consular notification was mandatory, and the notification form shall be impounded as evidence.
 3. China or Hong Kong Citizens: Hong Kong reverted to Chinese sovereignty on July 1, 1997, and is now officially referred to as the Hong Kong Special Administrative Region, or “SAR.” Under the March 25, 1997, US-China Agreement on the Maintenance of the US Consulate General in the Hong Kong Special Administrative Region, US officials are required to notify Chinese officials of the arrest or detention of the bearers of Hong Kong passports in the same manner, as is required for bearers of Chinese passports immediately, and in any event within four days of the arrest or detention.
 4. Citizens of the Republic of China or Taiwan: Notification is not mandatory in the case of persons who carry “Republic of China” passports issued by Taiwan. Such persons may be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office (“TECRO”), the unofficial entity representing Taiwan’s interests in the United States, can be notified at their request.
 5. Citizens of USSR or Russian States: Although the USSR no longer exists, some nationals of its successor states may still be traveling using its passports. Mandatory notification may be given to consular officers for all nationals of such states, including those traveling on old USSR passports. The successor states are listed separately within this Office Policy.
 6. Citizens of the United Kingdom and British Dependencies: The United Kingdom includes British nationals from Great Britain, England, Scotland, and Wales; Northern Ireland; the Crown Dependencies of Jersey, Guernsey, and the Isle of Man; and the British Overseas Territories including Anguilla, British Virgin Islands, Bermuda, the Cayman Islands, Gibraltar, Montserrat, and the Turks and Caicos Islands. Residents of the Overseas Territories may be travelling on a passport issued by the territory with no indication that the

territory is British. Deputies shall need to verify mandatory consular notification from the list in this Office Policy, or by going to <http://travel.state.gov>.

- B. Countries not Requiring Mandatory Notifications:
1. Deputies shall advise suspects who are citizens of countries such as Mexico, and other countries not requiring mandatory consular notification, that they have the right to have their consular officers notified. Deputies may comply with this requirement by reading or paraphrasing the following statement to the foreign national prior to interviewing them. Deputies may utilize the Voiance Language Services for assistance in translating if necessary and follow the procedures specified in Office Policy GI-5, *Voiance Language Services*.
 - a. **English:** “As a non-US citizen who is being arrested or detained, you may request that we notify your country’s consular officers here in the United States of your situation. You may also communicate with your consular officers. A consular officer may be able to help you obtain legal representation, and may contact your family and visit you in detention, among other things. If you want us to notify your consular officers, you can request this notification now, or at any time in the future. Do you want us to notify your consular officers at this time?”
 - b. **Spanish:** “Por no ser ciudadano de los Estados Unidos, y estar arrestado o detenido, usted puede pedirnos que notifiquemos de su situación a los funcionarios consulares de su país, en los Estados Unidos. También puede comunicarse con los funcionarios consulares de su país. Entre otras cosas, un funcionario consular de su país puede ayudarle a conseguir consejo legal, y también puede ponerse en contacto con su familia y visitarlo en el lugar de detención. Si usted desea que notifiquemos a los funcionarios consulares de su país, puede solicitarlo ahora o en cualquier oportunidad en el futuro. ¿Desea que notifiquemos ahora a los funcionarios consulares de su país?”
 2. Citizen Request for Notification: If the foreign national requests their country’s consular officers to be notified, deputies shall fax the *Arrest/Detention of Foreign National Notification Form* to the Consular Officer.
 3. Refusal or Denial of Notification: If the foreign national declines to have their consul notified, deputies shall note that fact on the notification form and have the suspect sign it. If the suspect refuses, no notification shall be made, and the deputies shall write “Refused” on the form.
- C. Notification of ICE: When a foreign national, with or without proper documentation, is arrested and detained by the Office, the ICE agents working in designated intake and release facilities shall interview them prior to them being accepted into the jail system.
12. **Immunity:** Deputies shall follow procedures to determine law enforcement action related to immunity privileges to legislators and diplomats as defined by law, as well as, military and National Guard personnel, as specified in Office Policy EA-16, *Immunity*.
13. **Rights of the Prisoner:** It shall be the duty and responsibility of deputies to ensure the rights of the prisoner are always protected, during and after the arrest, and prior to confinement.
- A. Miranda Rights: Miranda Rights need to be read only if the suspect is in custody or is deprived of their freedom of movement in any significant way and is being questioned in a manner likely to elicit

an incriminating response. The Miranda Rights should be read to a suspect from a standardized *Miranda Warnings Card*, or *Juvenile Miranda Warnings* form. Employees shall ensure the suspect understands their rights before starting a custodial interview or interrogation. The advisement of the suspect's rights, time and date of advisement, and their response shall be documented in the IR. It is essential employees take necessary steps to protect the rights of suspects who are hard-of-hearing and/or who require assistance, as specified in Office Policy GI-5, *Voiance Language Services*, as well as others who may not have sufficient education or communication skills to fully understand their basic Miranda Rights. Additional procedures related to Miranda Rights are specified in Office Policy GJ-7, *Criminal Investigations: Operations*.

1. Miranda Rights are not required to be read to a suspect at the scene of an arrest. Deputies may wait until the suspect has been taken to a more suitable location for the interview or a detective is responding to assume the investigation.
 2. In all cases, the deputy or detective conducting the interview shall determine when to advise the suspect of their Miranda Rights prior to asking incriminating questions about the crime.
 3. If, during the interview, a prisoner invokes their right to silence or their right to confer with an attorney, the interview shall cease, as specified in Office Policy GJ-7, *Criminal Investigations: Operations*. The interviewer shall note the date and time of the invocation of rights and the actions taken in their IR.
- B. Access to an Attorney: If a suspect requests, they shall be given an opportunity to call or confer with an attorney, as soon as practical, after being arrested or booked.
14. **Transporting Prisoners:** Necessary precautions shall be taken while transporting prisoners to protect the lives and safety of the deputies, members of the public, and the person in custody. Guidelines regarding the use of restraining devices are specified in Office Policy GJ-9, *Restraint and Transportation of Prisoners and Inmates*.
15. **Supervisor Responsibilities:**
- A. First-line supervisors shall ensure deputies are policing actively and effectively, are provided with instruction necessary to correct mistakes, and are held accountable for misconduct. Effective supervision requires supervisors to respond to the scene of certain arrests, including but not limited to:
 1. Assault on, or injury to, an employee;
 2. Allegation of assault or injury to a member of the public by an employee;
 3. Any arrest that involves use of force requiring documentation in a *Use of Force* Blue Team entry;
 4. Felony pursuits; or/and
 5. All critical incidents, as specified in Office Policy GJ-2, *Critical Incident Response*; including but not limited to:
 - a. Any incident that involves the use of force by an employee resulting in death or serious physical injury;

- b. The intentional or unintentional discharge of a firearm by an employee in the performance of their lawful duties; or
 - c. The death of a prisoner or inmate, by any means, while in the custody of the Office.
- B. Deputies shall submit documentation of all stops, investigatory detentions, and arrests to their supervisors by the end of the shift in which the action occurred. IRs generated during a DUI task force where the subject is cited and released for a DUI, shall be submitted, as specified in Office Policy GF-5, *Incident Report Guidelines*. Absent exceptional circumstances, within 72 hours of receiving such documentation, supervisors shall independently review the reports. If the incident did not include an arrest or detention, the supervisor shall review the IR within seven calendar days, absent exigent circumstances.
- C. Supervisors shall review reports and forms for boilerplate or conclusory language, inconsistent information, lack of articulation of the legal basis for the action, or other indicia that the information in the reports or forms is not authentic or correct.
- D. Supervisors shall document any arrests that appear unsupported by probable cause or are otherwise in violation of Office Policy in Blue Team by selecting the IR Memorialization tab in the “Incident Type” drop-down menu; or indicate a need for corrective action or review of Office Policy, strategy, tactics, or training in Blue Team. Supervisors shall take appropriate action to address violations or deficiencies in making arrests, including notification of prosecuting authorities, recommending non-disciplinary corrective action for the involved deputy, and/or referring the incident for administrative or criminal investigation.
- E. Supervisors shall take appropriate action to address all violations or deficiencies in investigatory stops or detentions, including non-disciplinary corrective action for the deputy; or referring the incident for administrative review or criminal investigation. Supervisors shall track, through Blue Team, each deputy’s deficiencies or violations and the corrective action taken, in order to identify deputies who need repeated corrective action. Supervisors shall:
 1. Notify the Professional Standards Bureau;
 2. Ensure that each violation and corrective actions for violations or deficiencies in investigative stops, detentions, or arrests is documented in the deputy’s performance evaluations, as specified in Office Policy GC-4(S), *Sworn Employee Performance Appraisals & Management*. The quality and completeness of the supervisory review shall be taken into account in the supervisor’s own performance evaluations; and
 3. Take appropriate corrective or disciplinary action against supervisors who fail to conduct complete, thorough, and accurate reviews of deputies’ investigatory detentions and stops.
- F. Command level personnel shall review, in the Blue Team, all supervisory reviews related to arrests that are unsupported by probable cause or are otherwise in violation of Office Policy; or that indicate a need for corrective action or review of Office Policy, strategy, tactics, or training.
 1. The commander’s review shall be completed within 14 days of receiving the document reporting the event. The commander shall evaluate the corrective action and recommendations in the supervisor’s written report and ensure that all appropriate corrective action is taken.

2. Commanders and above need to assess the quality and completeness of the supervisor's review of the sworn employee's EIS/IAPro history review related to corrective actions for violations or deficiencies in investigative stops, detentions, or arrests.
 - G. Supervisors shall unequivocally and consistently reinforce to subordinates that discriminatory policing is unacceptable.
16. **Training:** All deputies, including sworn supervisors and chiefs, as well as reserve deputies, deputy services aides, and posse members shall attend training related to the Fourth Amendment, including stops, detention, and arrests, and related to racial and bias-based profiling. Training topics may include, but are not limited to:
- A. An explanation of the difference between various law enforcement contacts according to the level of police intrusion and the requisite level of suspicion; the difference between reasonable suspicion and mere speculation; and the difference between voluntary consent and mere acquiescence to police authority;
 - B. Guidance on the facts and circumstances that may be considered in initiating, expanding, or terminating an investigatory stop or detention;
 - C. Guidance on the circumstances under which an investigatory detention can become an arrest requiring probable cause;
 - D. Constitutional and other legal requirements related to stops, detentions, and arrests; and the enforcement of immigration-related laws;
 - E. Office policies related to stops, detentions and arrests, and the enforcement of immigration-related laws, and the extent to which past instructions to personnel on these topics were incorrect, and a correction of any misconceptions about the law or Office Policies;
 - F. The circumstances under which a passenger may be questioned or asked for identification;
 - G. The forms of identification that shall be deemed acceptable if a driver or passenger (in circumstances where identification is required of them) is unable to present an Arizona driver's license;
 - H. The circumstances under which a deputy may question any individual as to their alienage or immigration status, investigate an individual's identity, search the individual in order to develop evidence of unlawful status, contact ICE/CBP, await a response from ICE/CBP and/or deliver an individual to ICE/CBP custody;
 - I. An emphasis on the rule that use of race or ethnicity to any degree, except in the case of a reliable, specific suspect description, is prohibited; or
 - J. Data collection protocols and reporting requirements, particularly reporting requirements for any contact with ICE/CBP.