

# GENERAL ORDER



Title <b>Use of the Detention Journal</b>	
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Replaces / Rescinds General Order 502.5 (Use of the Detention Journal)	

DISTRICT OF COLUMBIA

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## I. BACKGROUND

The Metropolitan Police Department has established the policy and procedure for implementing the provisions of D.C. Official Code 5-115.01 (Limitation on period of questioning; advisement of rights; release uncharged; admissibility of confessions) and for use of the Detention Journal.

## II. POLICY

The policy of the Metropolitan Police Department is to protect the rights of all persons accused of committing a crime, place positive emphasis on the legislative intent of Congress, thereby allowing all arrested persons to be accorded all applicable Constitutional and statutory protections in connection with any arrest or questioning. In cases where it is determined that an arrestee should be released without charge it is MPD policy to swiftly and courteously cause the arrestee to be freed.

## III. PROCEDURAL GUIDELINES

### A. Detention Journal

1. Each organizational element of MPD that utilizes the Criminal Justice Information System shall maintain an additional record, in logbook form, which shall be designated as the "Detention Journal."
2. The Detention Journal shall be used to record information on individuals that have been arrested, then released without charge, from the arresting element and shall contain the following information:
  - a. A Detention Journal case number;
  - b. The CJIS case number;
  - c. Crime for which he/she was arrested;

- d. Name and element of arresting officer;
  - e. Time of arrest;
  - f. Time of release;
  - g. Initials of official entering information on Detention Journal; and
  - h. Signature of official authorizing the release. If an official of another organizational element or outside agency authorizes the release, his/her name and unit shall be entered.
3. Arrestees who are to be released via the Detention Journal shall not be unnecessarily detained while an entry is made in the Detention Journal.
  4. Once the information needed to make an entry has been obtained, the arrestee shall be given a copy of the PD Form 731 (Information to Arrestee Released Without Charge) and released.
  5. The Watch Commander (or Sergeant or above, for releases from locations other than police facilities) who authorizes the release via the Detention Journal shall be responsible for:
    - a. Ensuring that proper entries are made in the Detention Journal; and
    - b. Causing the identifying data to be deleted from CJIS and transferred to the Detention Journal, when appropriate.
- B. Implementing D.C. Official Code § 5-115.01:
1. “Any person arrested in the District of Columbia may be questioned with respect to any matter for a period not to exceed 3 hours immediately following his arrest. Such person shall be advised of and accorded his rights under applicable law respecting any such interrogation. In the case of any such arrested person who is released without being charged with a crime, his detention shall not be recorded as an arrest in any official record.” (CALEA 1.2.3-a-b)
  2. “Any statement, admission, or confession made by an arrested person within 3 hours immediately following his arrest shall not be excluded from evidence in the courts of the District of Columbia solely because of delay in presentment.”

3. This statute does not expand or increase the authority of police officers to make arrests. Members shall make arrests only on the basis of probable cause or the authority of an arrest warrant.
4. Whenever any person is arrested, he/she shall be transported to a police facility without unreasonable delay and the arrest shall be entered into CJIS. The following exception shall apply; when it is determined before the arrested person is transported to a police facility that the arrested person is entitled to be released without being charged. In such cases, when the arrestee is NOT at a police facility, an official (Sergeant or above) shall:
  - a. Respond to the scene of the arrest;
  - b. Take the information necessary to make an entry in the Detention Journal;
  - c. Provide the arrested person with a copy of the PD Form 731;
  - d. Authorize the release of the arrested person at the scene;
  - e. Be responsible for making an entry in the Detention Journal; and
  - f. Have the arresting officer prepare a PD Form 728 (Detention Report), which shall be reviewed and signed by the element Watch Commander.
5. If the arrestee is taken to a station and booked in CJIS, and within three hours following the arrest it appears that the arrestee is entitled to release without being charged (such as when an alibi is offered, checked out, and found to be valid), the Watch Commander shall designate a member to delete the CJIS entry and transfer the appropriate information from CJIS to the Detention Journal, and release the arrestee.
  - a. If it is determined that a person arrested is entitled to be released and more than three hours have passed since the time of arrest, the person shall nevertheless be released.
  - b. The Watch Commander who authorizes the release shall ensure that a detailed explanation for the delay is included on the PD Form 728.
  - c. All detention reports in which persons were held for more than three hours prior to release shall be forwarded, through the Executive Assistant Chief of Police to the Chief of Police, for review, not later than 0900 hours on the next business day following the release of the arrestee.

- d. Under no circumstances shall an arrestee who is to be released via the Detention Journal be required to sign the PD Form 731, or any other document, as a condition of release.
6. In cases where an arrestee has been transported to an organizational element other than the element which the arresting officer is assigned, (e.g., from a district to SID) and it is determined by a member of that element that the arrestee should be released without being charged, the Watch Commander of the element to which the arrestee has been transported, shall authorize the release of the arrestee.
  - a. The Watch Commander who authorizes the release is responsible for ensuring that all CJIS entries pertaining to the arrestee are deleted and that a Detention Journal entry is made at every organizational element where there was a CJIS entry, as well as at the element where the release is authorized.
  - b. The member who determined that the arrestee should be released shall complete the PD Form 728, which shall be reviewed and signed by the element Watch Commander.
7. At the time of release, the arrestee shall be given a copy of the PD Form 731 (setting forth basic facts relating to his/her arrest and release). He/she shall be advised that, with respect to this detention, he/she is entitled to respond negatively to any future inquiry regarding whether he/she has an arrest record.
8. In those instances where a person is arrested and transported to CCB, then found to be a Detention Journal case, the CCB supervisor shall:
  - a. Advise the arrestee it has been determined that he/she is a Detention Journal case and take the following steps:
    - (1) Notify the original district to provide transportation to the arrestee, if desired, back to the arresting officer's element;
    - (2) Allow the arrestee, if so desired, to leave directly from CCB; and
    - (3) Ensure that a PD Form 731 is prepared in triplicate by CCB personnel and distributed as follows:
      - a) Retain the original and one copy for pick up by a representative of the arresting officer's element; and
      - b) Give the remaining copy to the arrestee.

- b. Notify the arresting officer's element Watch Commander of the change in the arrestee's status and whether the arrestee wishes to be transported back to the arresting element;
  - c. Allow the arrestee to make the necessary telephone calls to secure transportation from CCB when applicable; and
  - d. Obliterate the arrestee's name from the UN-931 (Arrestee Lock-Up Sheet).
9. Neither the Detention Journal nor the PD Form 728 records shall be open to public inspection, but such record shall be available to the arrestee or his attorney.

C. Processing of Persons Arrested by Other Law Enforcement Agencies

1. In all cases where a person has been arrested by another law enforcement agency and it is subsequently determined that the person should be released without charge, the element Watch Commander, upon being notified of an outside agency Detention Journal case, shall:
  - a. Notify the official in charge of the arresting officer's agency to respond or cause an official of that agency to respond to the scene of the arrest or the booking element, as applicable. When the arrestee is booked by an element of this department, the responding agency official shall:
    - (1) Make the determination to release the person; and
    - (2) Record all appropriate information on the element Detention Journal (to include his/her name and agency) and execute PD Forms 728 and 731.
  - b. Ensure that other law enforcement agency officials who respond to authorize the release of a person arrested and booked in CJIS comply with the procedures set forth in this general order.
  - c. Determine whether the person should be released without charge when the arrestee is not brought to a booking element (e.g., field arrest).
    - (1) In this case, no entry shall be made on the Detention Journal; and
    - (2) The agency concerned may record such detention information in any manner it deems appropriate.

- d. Authorize the release of the arrested person, in compliance with this order, when the outside agency's official does not respond within thirty minutes of notification of the detention journal case.
- e. Ensure that the originals of PD Forms 728 and 731 (outside agency cases inclusive) are forwarded to the Regional Operations Command Assistant Chief or Special Services Command Assistant Chief, for review, no later than 0900 hours on the next business day following the release of an arrestee.

Note: If unusual circumstances exist the Regional Operations Command Assistant Chief or Special Services Command Assistant Chief shall forward the PD Forms 728 and 731 to the Office of the Executive Assistant Chief of Police.

#### D. John Doe Procedure

1. If it is determined that an unidentified person who has been arrested is entitled to be released via the Detention Journal, and the arrestee has refused to establish his identity, there shall be no further detention for the sole purpose of identification. (In such cases, a John Doe entry shall be made on the Detention Journal).
2. The fact that a John Doe entry was made, with a physical description of the individual and the reasons why, shall be noted on the PD Form 728.

#### E. Invalid Arrests

1. The Detention Journal shall be used to record the release of arrestees in every case in which it is determined that the arrestee is entitled to be released without being charged. (As stated earlier, an officer's arrest authority is unchanged by D.C. Official Code § 5-1115.01).
2. When it is determined that an arrest was made without the reasonable belief that a valid arrest warrant was outstanding (when one is required), or that an arrest was made without adequate probable cause, the arrestee shall be released via the Detention Journal.
3. The Watch Commander who authorizes the release shall ensure that the PD Form 728 contains a detailed account of the circumstances of the arrest and release.
4. In Detention Journal cases involving other law enforcement agencies, the Watch Commander shall ensure that the releasing official complies with Parts IV.C and IV.D of this order.

5. All such reports shall be reviewed personally by the Regional Operations Command Assistant Chief or Special Services Command Assistant Chief.

Note: If unusual circumstances exist the Regional Operations Command Assistant Chief or Special Services Command Assistant Chief shall forward the PD Forms 728 and 731 to the Office of the Executive Assistant Chief of Police.

- F. The organizational element's Watch Commander authorizing the release of an arrestee via the Detention Journal shall ensure that:
  1. PD Form 731 is prepared in triplicate, and a PD Form 728 is prepared in duplicate.
  2. PD Forms 728 and 731 are properly completed and forwarded with the morning papers to the Regional Operations Command Assistant Chief or Special Services Command Assistant Chief.
  3. Proper entries are made in the Detention Journal.
  4. Identifying data is deleted from CJIS and transferred to the Detention Journal, when appropriate.
  5. The arrestee is provided with a copy of the PD Form 731 at the time of his/her release, and that the arrestee has been apprised of the following:
    - a. The PD Form 728 and the Detention Journal information are available upon request of the arrestee or his/her attorney;
    - b. All arrest information pertaining to this arrest will not be accessible to the public; and
    - c. All arrest information pertaining to the arrestee has been obliterated, and he/she may respond negatively to the fact that he/she has an arrest record with regard to this case.
  6. The procedures in Part IV.C of this order are adhered to when handling outside agency Detention Journal cases.
  7. An official or designee, when appropriate:
    - a. Responds to CCB;
    - b. Transports the citizen back to the district station (when applicable) and completes the Detention Journal reports; or

- c. Picks up two copies of the PD Form 731 (completed by CCB personnel upon the release of the arrestee from CCB) and completes the PD Form 728; and
  - d. Ensures that all arrest reports are destroyed and information pertaining to this arrest is deleted from CJIS.
- G. Commanding Officers shall:
  - 1. Investigate all cases of improper arrests or unreasonable delays in the release of arrested persons involving the Detention Journal, and initiate remedial or disciplinary action appropriately;
  - 2. Bring to the attention of the respective commanding officer of the agency involved, those instances where an official from another law enforcement agency is not reasonably available to respond or fails to respond after being notified,
  - 3. Ensure that members of their command are familiar with the information contained in this order, and monitor the use of the Detention Journal for district compliance.
  - 4. Ensure that all PD Forms 728 and 731 are forwarded to the Regional Operations Command, or Special Services Command and the Office of the General Counsel, for review, not later than 0900 hours on the next business day following the release of the arrestee.
- H. The Director, Records Department shall ensure that members of his/her department are familiar with this order, and adhere to the policy set forth.
- I. The Regional Operations Command Assistant Chief or Special Services Command Assistant Chief, shall forward all PD Forms 728 and 731 that involve unusual circumstances to the Office of the Executive Assistant Chief of Police for review.

// SIGNED //  
Charles H. Ramsey  
Chief of Police

CHR:NMJ:MAR:mcw