

# Metropolitan Police Academy



## 5.2 Non-Custodial Arrest

## Introduction

There will be numerous times as a police officer when you will have probable cause to make an arrest. The issuance of a **Field Arrest Citation (PD 61-D)**, which constitutes a *non-custodial* arrest, can be used for a specified set of misdemeanor offenses at the discretion of the officer who witnessed the crime. The field arrest citation is useful for enforcing the law while maintaining a visible presence in your Patrol Service Area as it takes far less time to issue in comparison to the time that would be necessary to process a custodial arrest.

During the course of this lesson, you will learn some of the most common offenses encountered by patrol officers for which you can issue a PD 61-D. Remember, though, that this does not preclude you from making custodial arrests for witnessed offenses of the law.

It is necessary to know when and how to issue a Field Arrest Citation. Understanding all types of arrests and the avenues and options available to you during patrol increases not only your competency as an officer, but also your effectiveness in reducing crime and serving the community.

### 5.2.1 Distinguish custodial and non-custodial arrests

#### Custodial Arrest

A custodial arrest is when an officer, acting with legal authority, has probable cause to detain and seize an individual in response to a violation of the law. A custodial arrest is also referred to as locking up someone. When you think of a custodial arrest, the process that likely comes most readily to your mind is the image of an officer placing handcuffs on an individual who has violated the law, informing the individual that he or she is under arrest, and placing the arrestee into the back of a police car for transport to the station for processing.

#### Non-Custodial Arrest

Every offense that you encounter as a police officer requires police action of some kind on your part. You cannot have knowledge of a criminal offense and *simply ignore it*. This means that whenever you witness an offense, you must take police action in accordance with the laws of the District of Columbia and Metropolitan Police Department general orders. When you fail to take action, you are not only guilty of a criminal offense, but you also violate the oath of office you will soon take.

The Superior Court of the District of Columbia provides another avenue for handling certain criminal offenses without taking a person into police custody. Within the District of Columbia, there are times when a Field Arrest Citation can be issued for certain misdemeanor offenses, in lieu of a custodial arrest. However, keep in mind that in order to issue a Field Arrest Citation, you must have reason to believe that the individual to whom you are issuing the citation is not a danger to themselves or others and that they will not destroy property if not taken into police custody. Those two criteria should sound familiar as they are two of the three conditions that must be satisfied whenever you are investigating a probable cause misdemeanor.

The Field Arrest Citation differs from the probable cause misdemeanor conditions in that there must also be a reasonable belief, on your part, that the individual will make an appearance to pay the collateral for the violation or request an arraignment date. PD 61-Ds, like custodial arrests, carry arrest numbers and if

the individual does not pay the collateral or request an arraignment fifteen (15) days from the date on the Field Arrest Citation, then it becomes your responsibility to secure an arrest warrant.

Only certain misdemeanor crimes are 61-D eligible. The eligible offenses are found on the **Bond and Collateral List** and the COP must also designate which offenses are eligible. You will learn the elements of the most common 61-D-eligible offenses during this lesson, as well as receiving a list of the other offenses for which a person may be issued a Field Arrest Citation.

## 5.2.2 Understand the jurisdiction of a non-custodial arrest

The Office of the Attorney General prosecutes the crimes for which you can issue a PD 61-D. Any collateral set by the Superior Court is collected by the Metropolitan Police Department.

## 5.2.3 Classify the elements of routine patrol offenses eligible for non-custodial arrest encountered by patrol officers

The following non-custodial arrest offenses are the most common an officer will encounter. For the full list of charges for which a PD 61-D may be issued, see **SOP 05-02**.

- **Aggressive Panhandling - § 22-2301, 22-2302**

Panhandling means to “ask, beg or solicit alms.” This includes using the spoken, written, or printed word or such other act conducted for the purpose of obtaining an immediate donation of money or thing of value. Alms is the giving of money or food to the less fortunate.

Panhandling itself is not an offense; however, the way panhandling is conducted can make it illegal. The prohibited acts are discussed below and as you learn about the varying ways in which panhandling can be considered aggressive, and therefore a violation of the law, it is important to know that you must exercise discretion when deciding how best to resolve the situation when you are in the field. As noted, you must always take police action in response to the commission of a crime but, for the betterment of the individual and the community as a whole, at times a verbal or written warning can suffice as a response. When you use discretion, it demonstrates a law enforcement response that is compassionate while recognizing the circumstances of the involved parties.

Legal parameters constrain *how* and *where* a person may panhandle. It is against the law for a person to beg for money or any other type of assistance “in an aggressive manner in any place open to the general public...” Aggressive Panhandling is committed when doing any of the following while asking, begging, or soliciting:

- “Approaching, speaking to, or following a person in a manner as would cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person, or upon property in the person’s immediate possession.” You may have witnessed this during the course of your life: a panhandler asks for donations from those passing by and when another individual states that he or she does not have money to donate, the panhandler grows angry and follows behind that individual, cursing as they do so. The individual who would not donate money speeds up and perhaps becomes afraid. The actions of the panhandler in that instance are unlawful and deemed aggressive under the law.

- or “Touching another person without that person’s consent in the course of asking for alms.”
- or “Continuously asking, begging, or soliciting alms from a person after the person has made a negative response.”
- or “Intentionally blocking or interfering with the safe and free passage of a person by any means, including unreasonably causing the person to take evasive action to avoid physical contact.” This is most likely another situation you have witnessed or perhaps you have been on the receiving end of an aggressive panhandler who, while asking you for money, stood in front of you and when you attempted to go around the person, he or she moved to block your path while still asking for money.

You must remember the different ways to define this violation of the law as the particular details will be a necessary part of any arrest narrative when placing a person under arrest for panhandling in an aggressive manner. Simply writing in your narrative, “*John Doe was panhandling aggressively, in PSA 204, in front of 2323 Wisconsin Ave NW,*” will not suffice. You must be able to provide the legal basis for why the behavior was a violation of the law. This means you need to describe facts and in order to provide detail and context, you must have a thorough understanding of the laws you will enforce on behalf of the community.

Now that you have a foundational understanding of Aggressive Panhandling, there are seven additional caveats that constrain the ways in which an individual may lawfully seek monetary or food assistance.

1. It is unlawful to panhandle on any form of public transportation to include buses, trains, and Metro rail stops. There are people who will board Metro rail cars and, as the train is on route from one destination to another, beg for money from the passengers onboard the train. This activity is against the law.
2. It is unlawful to panhandle within ten (10) feet of any ATM.
3. It is unlawful to panhandle from any driver or passenger of a “vehicle that is in traffic on a public street.”
4. It is unlawful to panhandle from a driver or passenger of a vehicle on a public street in exchange for blocking, occupying, reserving, or directing the driver or passenger to a public parking space.
5. It is unlawful panhandle in exchange for cleaning “vehicle windows while the vehicle is in traffic on a public street.”
6. It is unlawful to panhandle “in exchange for protecting, watching, washing, cleaning, repairing, or painting a motor vehicle or bicycle while it is parked on a public street.”
7. No individual may panhandle “on private property or residential property without permission from the owner or occupant” of the property.

Aggressive Panhandling is a misdemeanor punishable by ninety (90) days in jail and/or a \$500 fine.

- **Crowding, Obstructing, or Incommoding - § 22-1307(a)**

It is unlawful for a person, alone or in concert with others, to crowd, obstruct, or incommode and continue or resume doing so “after being instructed by a law enforcement officer to cease:”

- “The use of any street, avenue, alley, road, highway, or sidewalk”
- or “The entrance of any public or private building or enclosure”
- or “The use of or passage through any public building or public conveyance”
- or “The passage through or within any park or reservation”

For example: You are patrolling 10-99 during the evening shift when the dispatcher raises you. “2081, respond to 1517 Connecticut Ave NW for a disorderly. The complainant states that a group of white males is blocking the entrance to the establishment.” You acknowledge the assignment and shortly thereafter arrive on scene. Upon your arrival, you see four white males standing directly in front of the entrance to the location such that other people who wish to gain entry are unable to do so. None of the males move from the entrance when a person makes an effort to go into the location. The group of four is effectively blocking passage and preventing the movement of others.

Prior to issuing a 61-D Field Arrest Citation or making a custodial arrest, those who are breaking the law in this fashion *must* be informed that their behavior is unlawful and they cannot continue their actions or they will face citation or arrest. You *must* then give the individuals a reasonable amount of time to move on or cease the illegal activity. This means that you cannot merely approach a person who is blocking passage, inform him or her that he or she has violated the law, and immediately make a custodial arrest or issue a Field Arrest Citation. A warning to cease the illegal blocking behavior must be given first. If after a reasonable amount of time the person does not cease the behavior or if he or she leaves at your direction only to return shortly thereafter and resumes the illegal behavior, you may then issue a 61-D or make a custodial arrest for Crowding, Obstructing, or Incommoding.

Crowding, Obstructing, or Incommoding is a misdemeanor punishable by ninety (90) days in jail and/or a \$500 fine.

- **Unlawful Demonstrating - § 22-1307(b)**

“It is unlawful for a person, alone or in concert with others, to engage in a demonstration in an area where it is otherwise unlawful to demonstrate and to continue or resume engaging in a demonstration after being instructed by a law enforcement officer to cease.” For purposes of this charge, the term demonstration “means marching, congregating, standing, sitting, lying down, parading, demonstrating, or patrolling by one or more persons, with or without signs, for the purpose of persuading one or more individuals, or the public, or to protest some action, attitude, or belief.”

This charge is prosecuted by the Office of the Attorney General and is applicable when a protestor is marching in an area where it is unlawful to demonstrate, and who after being warned to move on, continues to protest. When practical, members shall notify the Watch Commander of the Special Operations Division when charging a subject with Unlawful Demonstrating.

Unlawful Demonstrating is a misdemeanor punishable by ninety (90) days in jail and/or a \$500 fine.

- **Disorderly Conduct, Disrupting Gathering or Congregation - § 22-1321(b)**

It is against the law for a person to use loud, threatening, or abusive language, or to engage in disruptive conduct “with the intent and effect of impeding or disrupting the orderly conduct of a lawful public gathering, or of a congregation of people engaged in any religious service or in worship, a funeral, or similar proceeding.”

**NOTE:** When enforcing this law, you must have evidence to prove all the elements of the crime in order to issue a 61-D or make a custodial arrest.

- Is the individual utilizing *language* that is loud, threatening, or abusive and that disrupts the lawful public or religious gathering?
- Is the individual engaging in disruptive *behavior* that disrupts the lawful public or religious gathering?
- Does the individual have the *intent* to disrupt the lawful public or religious gathering?
- If the person has the *intent* to disrupt, are his or her actions or behaviors *actually* causing a disruption?

Disorderly Conduct, Disrupting Gathering or Congregation is a misdemeanor punishable by ninety (90) days in jail and/or a \$500 fine.

- **Disorderly Conduct, Disrupting Use of Public Conveyance - § 22-1321(c)**

“It is unlawful for a person to engage in loud, threatening, or abusive language, or disruptive conduct with the intent and effect of impeding or disrupting the lawful use of a public conveyance by one or more other persons.”

**NOTE:** Just as an individual engaging in unlawful behavior to disrupt a gathering must have the *intent* and *effect* of disrupting the gathering, the same holds true for an individual engaging in unlawful behavior to disrupt the use of public transportation.

Disorderly Conduct, Disrupting Use of Public Conveyance is a misdemeanor punishable by ninety (90) days in jail and/or a \$500 fine.

- **Disorderly Conduct, Noise at Night - § 22-1321(d)**

Within the District of Columbia, “it is unlawful for a person to make an unreasonably loud noise between 10:00 p.m. (2200 hours) and 7:00 a.m. (0700 hours) that is likely to annoy or disturb one or more other persons in their residences.”

As an officer, you will be dispatched to locations for the report of excessive noise. There may be times when the call for service is for what one person believes to be excessive noise within a bar or on a set of city blocks on which many bars are located. All bars within the District of Columbia fall not only under the purview of the Metropolitan Police Department, but also the Alcoholic Beverage Regulation Administration (ABRA). Every bar and restaurant that serves alcoholic beverages must be registered and licensed with ABRA. They are then given an ABRA number that is posted in the front window of the establishment.

When you are dispatched for a noise complaint at a bar, you must determine whether the excessive noise is likely to annoy or disturb one or more persons in their residences, *not* in their offices, stores, or cars.

If the noise coming from within the establishment meets the statute requirements for Noise at Night, request that the dispatcher mark the time. When you ask the dispatcher to mark the time, you are simply requesting that the dispatcher voice the time over the air so that you may add the time to your report. This enables you to document the fact that it falls within the time constraints written within the Noise at Night statute.

Record the ABRA number for the establishment as it *must* be included in your report. You will request a Central Complaint Number for an ABRA Incident. Upon completion of your report and its approval by an official, you *must* email a copy of the report to the **ABRA Coordinator** as he or she will investigate the noise complaint further.

There is a special unit within the department known as the **Night Life Unit** (e.g., Club Action Team, H Street Detail, etc.), which has a primary responsibility to maintain the safety of members of the community in the high traffic areas of clubs, bars, and restaurants. This unit will handle a great deal of the complaints that come to the attention of the department in relation to clubs and bars, but this does not mean areas of concentrated bars within your PSA are no longer your responsibility. You *must* still maintain a highly visible presence and assist the Club Action Team whenever possible.

Remember that you have discretion when responding to the scene of a noise complaint prior to making a report and submitting it to ABRA. You can always request to speak to the owner, inform him or her of the complaint, and request that the music be turned down or that he or she find another way to alleviate the noise.

***NOTE:*** Disorderly Conduct arrests, including for Disorderly Conduct, Noise at Night, *shall not* be based on an individual's conduct or language directed toward a member. Disorderly Conduct arrests based merely on a person's language, volume of voice, gestures, or attitude toward law enforcement are not lawful arrests.

Disorderly Conduct, Noise at Night *is not a probable cause misdemeanor*. Members must witness the offense in order to make an arrest or seek an arrest warrant.

Prior to making an arrest, whether custodial or non-custodial, members shall give a warning and provide a reasonable amount of time for the person to comply. When determining what constitutes a reasonable amount of time, members must take into consideration the amount of time it will take the person to cease the activity causing the noise. For example, a complaint involving loud music may be remedied quickly by turning the music down or off. However, disbanding a large group of people may take a longer time to remedy.

Members *shall not* make a custodial arrest for Disorderly, Noise at Night without first calling an official of the rank of lieutenant or above to the scene.

Members are reminded that they may make a non-custodial arrest for Disorderly Conduct, Noise at Night by issuing a PD-61D (Field Arrest Citation) in accordance with **SOP-05-02**.

To recap: When making a determination on charging a person with Disorderly Conduct, Noise at Night, members are reminded of the following:

- When a noise complaint involves a business that is regulated through the city, such as a bar, restaurant, or store, the first step is to refer it to the regulatory agency for that business. An arrest shall *only be considered* after efforts have been made to resolve the complaint through the other regulatory agencies and the district commander and possibly MPD General Counsel have been consulted.
- The content of the speech, music or other communications is *not* relevant. The law addresses the volume of the conduct, not its content or meaning.
- The unreasonably loud noise must occur between 10:00 p.m. and 7:00 a.m. Members should confirm the time with the dispatcher when making an arrest under this provision.
- The noise must be likely to annoy or disturb one or more persons in their residences, not in their offices, stores, or cars. However, it is not required that the noise be heard by a person in a home, only that it was likely to be heard.
- The noise does not have to occur on public space. The noise can occur anywhere it is likely to annoy or disturb people in their residences, including in other people's homes.

When completing arrest narratives for Disorderly Conduct, Noise at Night, members must document:

- What the defendant was doing to cause the noise.
- How did you confirm that the offense occurred between 2200 and 0700.
- Where is/are the dwelling(s) located in relationship to location of the noise.
- In cases where no complaints were received about the noise, how you determined that the noise could likely be heard from dwellings, and what was done to confirm this. For instance, could the member hear the noise from the other end of the block?
- What specific warnings were given, who gave them, how many warnings were given, and the time(s) they were given.
- How much time was given between the warning(s) and arrest.

**NOTE:** The Noise Control Act of 1977 (DC Law 2-53, as amended; 20 DCMR §§ 2700-2900) requires decibel levels to be measured by the Department of Consumer Regulatory Affairs (DCRA) though DCRA shall not make any arrests under the Noise Control Act.

Disorderly Conduct, Noise at Night is a misdemeanor punishable by ninety (90) days in jail and/or a \$500 fine.

- **Drinking Alcoholic Beverage in Public Space - § 25-1001(a)**

In the District of Columbia, no person is allowed to consume an alcoholic beverage:

- on “[a] street, alley, park, sidewalk, or parking area.”
- in “[a] vehicle in or upon any street, alley, park, or parking area.”
- in premises “where food or nonalcoholic beverages are sold or entertainment is provided for compensation,” but a license to sell alcohol has not been issued to the establishment in question.

While you must take appropriate police action when coming into contact with individuals in violation of the law, you must assess whether a violation of the law has actually occurred. If you are on patrol and witness an individual standing on the front screened porch of his or her private residence drinking from a can of beer, that person has not violated the law even though they are in that moment visible to other people passing by the home. It is not unlawful to consume an



alcoholic beverage while in or on a structure that is an integral part of a private residence, such as the front porch, terrace, or bay window.

Drinking Alcoholic Beverage in Public Space is a misdemeanor punishable by ninety (90) days in jail and/or a \$500 fine.

- **Possession of an Open Container of Alcohol § 25-1001(a)**

Just as it is unlawful to consume an alcoholic beverage on public space, the same limitations upon possessing an open container of alcohol on public space. Understand that a container, bottle, or can is considered *open* once the seal on the container has been broken regardless of whether the cap has been placed back upon it or it has been stopped with a cork. Flasks and any other similar container used in the transportation of an alcoholic beverage are *also* considered open as they are incapable of initially being sealed.

As with drinking in public, it is against the law for a person to possess an open container of alcohol:

- on “a street, alley, park, sidewalk, or parking area.”
- in “[a] vehicle in or upon any street, alley, park, or parking area.”
- in premises “where food or nonalcoholic beverages are sold or entertainment is provided for compensation,” but a license to sell alcohol has not been issued to the establishment in question.

The same exception to drinking in public also applies to the possession of an open container of alcohol. It is not unlawful to possess an open container of alcohol when in or on a structure that is an integral part of a private residence, such as the front porch, terrace, or bay window.

**NOTE:** When writing your narrative for an offense in which alcohol is involved, the wording *must* contain key wording when you describe the alcoholic beverage. Everything must be described as having either an odor or color that is consistent with that of an alcoholic beverage. Simply stating that the defendant had a container of alcohol will not suffice. You must also be sure to record the size of the container in which the alcohol was found, the Alcohol by Volume (ABV) listed on the container, the appearance of the liquid within the container, and how the container felt when held in your hand if you in fact held it.

The detail you place within the narrative concerning the alcoholic beverage strengthens your narrative. For example, “The liquid was amber in color and had an odor consistent with that of an alcoholic beverage. It was in a blue and silver can with the words *Blue Moon* running vertically along the side. The can was less than one-third full and was marked as twelve fluid ounces with an ABV of 5.3%. The can was covered in condensation and was cold to the touch.”

Possession of an Open Container of Alcohol is a misdemeanor punishable by ninety (90) days in jail and/or a \$500 fine.

- **Disorderly Conduct, Urinating or Defecating in Public - § 22-1321(e)**

It is against the law “for a person to urinate or defecate in public, other than in a urinal or toilet.”

Urinating or Defecating in Public is a misdemeanor punishable by ninety (90) days in jail and/or a \$500 fine.

- **Consumption of Marijuana in Public Space - § 48-911.01**

“Notwithstanding any other District law, it is unlawful for any person to smoke or otherwise consume marijuana in or upon a public space, or in or upon any of the following places:

- A street, alley, park, sidewalk, or parking area;
- A vehicle in, or upon any street, alley, park, or parking area; or
- Any place to which the public is invited.” A private club “is a place to which the public is invited” but “a private club does not include a private residence.”

The Office of the Attorney General prosecutes this charge. This offense functions similarly to Possession of an Open Container or Alcohol or Drinking in Public in terms of where marijuana can be legally consumed. **EO-18-015** mandates that a non-custodial arrest is to be made in all applicable public consumption of marijuana cases. Seize and process the marijuana as evidence.

Consumption of Marijuana in Public Space is a misdemeanor punishable by sixty (60) days in jail and/or a \$500 fine.

## 5.2.4 Contrast writing an arrest narrative to writing an incident narrative

The vast majority of your time as an officer will be spent properly documenting incidents and offenses that either occur in your presence or are reported to you after the fact. There are two reports, other than traffic reports, that you as a patrol officer will write most frequently. Even though you are issuing a 61-D non-custodial arrest, you also will be required to complete an offense/incident narrative and arrest narrative within Mark43 upon issuing the citation.

The first of these reports is the **Incident Report** which documents an event that occurred. You have already learned the important steps required to create a well written report. Remember that a report should generally be written in chronological order so that the reader who was not on the scene can form a clear image of the chain of events. An Incident Report can document both a criminal offense, such as Drinking in Public, and an event in which there is no criminal undertone.

For example: An individual calls and requests that police respond because as she was driving her vehicle, she hit a pothole on the public street and blew out a tire. An Incident Report for the damage to property would simply document how the damage came about without identifying a suspect. In contrast, if an individual reported a man drinking from an open container of alcohol while he was standing on the sidewalk and upon arriving on scene you witness a male drinking an alcoholic beverage on the sidewalk, the incident is criminal in nature and the Incident Report will need to document the offense.

The Incident Report is merely a report that documents the events as they occurred. When the events involve a criminal offense, then the Incident Report must additionally contain information about all of the elements of the crime that was committed.

The Incident Report must contain the facts surrounding the incident along with the following, as available:

- names/addresses/DOBs of those involved
- relationships to one another, if applicable
- type of call/problem/issue/classification
- details of the incident including **who, what, where, when, why, and how**
- witness information
- officer action taken, including investigation and the response and/or action of other personnel

- injuries/medical treatment information
- property damage
- evidence/property seized/taken/found
- suspect information/description
- observations/perceptions

When writing the incident narrative, always be mindful that it is a *public document* and anything written within it will be accessible to any member of the public that wishes to gain a copy. The Incident Report should contain just the necessary information to give the facts of the incident. If the incident is not criminal, as in the prior example of the vehicle that was damaged because of a pothole on the road, your narrative may read something like this:

“R1 reports the listed damage occurred as a result of driving over a pothole on the north side of the 3200 block of M St NW.”

When writing the incident narrative for a criminal offense, you *must* include information about the elements of the crime within the narrative as well. If an arrest is made as a result of the offense, then the report must show how you, as the patrol officer, were lawfully present when the arrest was affected *and* that you had *probable cause* to make the arrest.

For example: You are 10-4, working the evening shift when the dispatcher raises you. “1071, respond to 117 12th St SE for reports of a white female drinking in public. Possibly intoxicated. No complainant. Nothing further.” Your partner acknowledges the assignment. You both pull up shortly afterward and mark on the scene. Your partner points to a white woman standing on the sidewalk holding a container that you are unable to make out clearly. As you approach the woman, you see that the container is a can with the words Budweiser written along the side. You detect an odor consistent with that of an alcoholic beverage emanating from the woman. You introduce yourself and your partner, to which the woman responds by spitting at your feet and taking a swallow from the beer can. Your partner explains that drinking on a public space is against the law, at which point the woman pours the liquid onto the pavement and says, “well, I’m not drinking anymore!” You and your partner confer, make a decision, and place the woman under arrest for drinking an alcoholic beverage on public space.

Every **arrest narrative or Prosecution Report** has a corresponding Incident Report. When writing your arrest narrative, you must include:

- the date of the offense
- the approximate time the offense occurred
- the address of the offense
- the PSA in which the offense occurred
- the fact that the offense occurred in Washington, DC
- your call sign for the tour
- whether you were operating a scout car, mountain bike, Segway, etc., or whether you were on foot
- what kind of police identifiers you had on (full uniform, plain clothes with badge and raid-style jacket, etc.)
- all radio channels utilized
- the way in which you came to know of the offense (e.g., radio run, notification by a member of the public, noticed during the course of patrol duties, etc.)
- the sequence of facts leading to the arrest

- Detail the offense, including all the elements of the offense.
- Show through the facts how you had probable cause to make the arrest.
- the offense(s) for which the defendant was placed under arrest
- how the defendant was identified (e.g., verbally, state Driver's License, passport, etc.)
  - Include the defendant's social security number and date of birth.

**NOTE:** As reviewed in an earlier lesson, the arrest narrative should be written in the third person.

Your arrest narrative must describe the situation as fully as possible not only because it is the document that the attorneys will use during the course of a court case, but also because it will be used if you take the stand the testify in the case. As a police officer, you will encounter countless other incidents and offenses prior to appearing in court to testify to the events you record in your incident and arrest narratives. It will be next to impossible to remember the minute details of each offense months, if not years, after the fact.

When you testify in court, it is vitally important that you *never guess* about the facts surrounding a case. If you do not remember, then simply state that you cannot recall. However, you can request to see your Arrest Report in order to refresh your recollection and ensure that the facts to which you testify are aligned with the facts as you recorded them. If you do not take the time to write a detailed narrative, you will have nothing on which to rely when attempting to recall events. The narrative is also used as a personal aid in court and can prevent you from inadvertently perjuring yourself.

Even though a 61-D citation may be issued in the field, it is important to include an elevated level of detail in your incident and arrest narratives to ensure all items are captured for later prosecution.

## 5.2.5 Identify the PD 61-D (Field Arrest Citation)

As noted earlier in this lesson, not all misdemeanor crimes are eligible for the issuance of a 61-D. In order to perform your job in an effective manner, you must know which crimes can and cannot be resolved by the issuance of a 61-D and when you must make a custodial arrest.

When you come into contact with a person who has committed an offense for which a 61-D can be issued, you must get a **CCN**, a **Central Complaint Number**, from the dispatcher. If the individual has committed multiple offenses, you must complete a separate 61-D for each offense, though you may use the same CCN all of them. If you complete an Incident Report, the 61-D must use the same CCN as that report.

Your 61-D book has four colored copies:

- **White** and **Pink** - You give these copies to your check-off official prior to the end of your shift.
- **Yellow** - You give this copy to the person in violation or who committed the offense.
- **Goldenrod** - This is the copy you keep as it contains all of your notes about the offense.

Prior to issuing the 61-D, you must verify the identity of the individual to whom you will issue it. The individual must present you with a verifiable form of identification. If an individual is unable to provide you with proof of his or her identity, then you must affect a summary or custodial arrest.

If the individual is able to present you with a form of identification with which you are satisfied, then a WALES/NCIC check *must* be conducted as you need to know whether the violator has one or more

warrants out for his or her arrest or is wanted for some other reason. The dispatcher can conduct this check for you.

When completing the Field Arrest Citation, ensure that the individual's copy does not contain any of your notes taken about the scene and the offense that you observed. Give the individual the yellow copy and inform him or her that she or he has fifteen (15) *calendar* days to appear at any of the police district stations listed on the 61-D so that they might forfeit the collateral or request an arraignment date.

**NOTE:** Make sure that the individual in violation knows exactly where they are to report in relation to their 61-D.

The Field Arrest Citation must be handed directly to the violator and cannot be left under the windshield wiper of a vehicle or in a mailbox.

After you have issued the individual his or her copy, complete your incident narrative. Remember, the narrative must be detailed and contain all relevant information in relation to the offense that occurred. This means you must document the facts and circumstances surrounding the offense in the same manner you would use when recording the facts in an Arrest Report. The narrative for your 61-D may be needed if a warrant has to be issued at a later time for the individual or if the attorneys at the Office of the Attorney General (OAG) request the narrative for prosecution.

If the violation in question involves a vehicle, then you must document this information as well. Be sure to capture:

- the vehicle license number/state/tag year
- the vehicle make/model/year/color
- the operator's permit/license number/class/state
- a description and location of the vehicle
- all other information that is relevant to the offense in question

### **Warning Citation**

When it comes to the issuance of a Field Arrest Citation, you have discretion. Exercising discretion means that you take into account the totality of the circumstances surrounding the violation and, using your best sound judgment, believe that a verbal warning is sufficient to correct the action.

If you wish to give an individual a warning, you can do it through a written warning on the 61-D. On the space that would require you to document the collateral for the offense, simply write the word "**WARNING**" in large capital letters. Inform the individual that he or she needs take no further action in reference to the Field Arrest Citation.

When you complete your narrative, it should be as detailed as the narrative you would complete had you not issued a warning. You *must* include the reason you felt the warning was warranted. Keep your copy of your notes and the narrative in case you need them in the future on the chance you come into contact with the same person when he or she has committed another offense or simply committed the same offense for which they were given a warning on a prior occasion.

When you issue a warning, you need to request a CCN and complete a Stop Report in RMS.

## **Stop Report**

*Anytime* you initiate a stop, including when you come into contact with a person to whom you give a verbal warning for a violation of the law, you must complete a **Stop Report**. The Stop Report will document the reason the person was detained and the result of the police encounter, and it must include how you came to learn of the infraction. Were you dispatched, did another individual make you aware that the law was potentially being broken, or did you happen upon the person during your patrol duties?

Be sure to give the person stopped a copy of the report number, as well.

## **5.2.6 Explain the requirements for issuing a Field Arrest Citation (PD 61-D)**

While you many times have discretion on when to issue a Field Arrest Citation (61-D) or make a custodial arrest, there are times when issuing a Field Arrest Citation (61-D) is not an option.

You cannot, under any circumstances, issue a 61-D to a juvenile. The person to whom you issue the 61-D must be an adult.

You cannot, under any circumstances, issue a 61-D to a diplomat.

The 61-D citations may only be issued for eligible charges as outlined in the **61D SOP**.

If you issue a 61-D to an individual, you must have reason to believe he or she poses no danger to another person, his- or herself, or property and that he or she will take the steps necessary to appear to answer the Field Arrest Citation by either paying the collateral for the offense or requesting an arraignment date. If you have *any* reason to believe that the individual in question does not meet these criteria, then a Field Arrest Citation cannot be issued and you must effect a custodial arrest.

If you make the decision to issue the 61-D, remember that you must get a Central Complaint Number (CCN) and fill out an offense/Incident Report.

It is also your responsibility to ensure that the Field Arrest Citation is entered into the system. You do this by filling out the 61-D box on the offense/Incident Report.

When the subject reports to a station, the station clerk will use the CCN to complete the narrative in the report for processing, based on if the subject if paying the fine or requesting a hearing.

## **5.2.7 Complete a Field Arrest Citation for an eligible offense**

- Aggressive Panhandling
- Blocking Passage
- Disorderly Conduct, Disrupting Gathering or Congregation
- Disorderly Conduct, Disrupting Use of Public Conveyance
- Disorderly Conduct, Noise at Night
- Drinking in Public
- Possession of an Open Container of Alcohol
- Urinating or Defecating in Public
- Consumption of Marijuana on Public Space

## 5.2.8 Differentiate elect to forfeit from arraignment date

An individual has two options once you issue a 61-D and he or she presents him- or herself at the station. The person may **elect to forfeit**, also known as Post and Forfeit, the collateral for the offense, or the person may request an **arraignment date**. In a rare circumstance, a lock up may be required. When an individual shows up at the station to complete the booking process, there is a possibility that something may show up that prevents post and forfeit or citation release (e.g., a previously undiscovered warrant).

### Elect to Forfeit

When the person elects to forfeit the collateral for the offense, the individual chooses to pay a pre-set monetary amount that is associated with the offense. When the person pays the money, this is not an admission of guilt but a decision to avoid receiving a verdict from a judge or jury following the request of an arraignment date. When the individual makes the decision to pay the collateral for the offense, he or she will not have a conviction on their record though they *will* have an arrest record for the offense as 61-Ds are still a form of arrest. They are just non-custodial arrests. Once the person pays the collateral after deciding to elect to forfeit, the charge for which the individual was issued the Field Arrest Citation is resolved and the case is closed.

### Arraignment Date

If the person requests an arraignment date, this means that he or she wishes to have the case presented before a judge or jury where the charges are contested. If a person decides to request an arraignment date, then the process continues as if you had made a custodial arrest and the person had been cited and released. The individual will be given a court date and the prosecutors of the District of Columbia must then determine if they will go forward with the case and bring charges against the individual to whom you issued the Field Arrest Citation.

**NOTE:** The individual must either elect to forfeit or request an arraignment date within fifteen (15) calendar days from the issuance of the 61-D. If the person fails to do so, it is *your* responsibility to apply for an arrest warrant.

## 5.2.9 Distinguish the types of monetary payments connected to criminal cases

There are several types of monetary payment that are connected to offenses and criminal cases that you must learn as knowledge of these terms not only furthers your understanding of the legal process, but also your role within the process.

- **Collateral** for an eligible misdemeanor offense is an amount of money that has been preset by a judge for the offense in question. Collateral is the monetary amount to be paid by an individual for committing an offense. If the person chooses to pay, again, this is not an admission of guilt though the person will have an arrest record for the offense.
- **Bond** - When an individual is given bond, it is a form of security to ensure that he or she appears in court for a trial or hearing which a judge deems necessary. Unlike collateral, an individual forfeits his or her bond as *punishment* upon failure to appear in court. Only a judge can set bond. Neither you nor any other member of the department may issue bond to ensure an individual appears in court.

- **Fine** - Unlike bond and collateral which occur prior to or without a conviction, a fine is a monetary penalty imposed upon an individual by a judge after he or she has been convicted of an offense.

### **5.2.10 Outline the procedures for violators to answer the citation**

Each district station keeps track of all 61-Ds issued within the district in the **Fifteen Day Suspension File**. All 61-Ds can also be accessed in Mark43. Station personnel are responsible for monitoring the files and locating any 61-Ds that are more than fifteen (15) days old. The Fifteen Day Suspension File is the file personnel within the station reference when an individual presents to pay the collateral or request an arraignment date.

It is your responsibility to speak with station personnel in reference to any Field Arrest Citation that you issue to check for its disposition. If the fifteen (15) calendar days have expired with no disposition, you must present an affidavit for an arrest warrant at the Office of the Attorney General for the individual who failed to answer the citation. You have two (2) days to do so from the date you are notified that the individual failed to appear to answer the citation.

Your narrative within the arrest warrant must make note of the fact that the person did not appear to answer the citation at any district station within the fifteen (15) calendar days. Prior to presenting your affidavit for an arrest warrant at the OAG, it must first be reviewed and approved by a lieutenant or above.

If your arrest warrant is declined at the OAG, then return to your element with the declined affidavit and 61-D. Give the paperwork to the station personnel for proper filing.

### **5.2.11 Indicate the procedures for violators who fail to answer the citation**

Once they have presented themselves at the district station, they may choose to pay the collateral (also called Elect to Forfeit) or decide they would like an Arraignment Date in order to contest the charges against them.

Remember, though they will have an arrest record if they choose to Elect to Forfeit, this is not viewed as an admission of guilt. Once the collateral is paid, the case against that individual is then closed. If they pick an arraignment date, then they continue further into the legal system and will be processed through court proceedings where a judge or jury, will find them guilty or not guilty of the charges brought against them. This is why you must be sure to document the entirety of the sequence of events that led to the issuance of the 61-D. The narrative you write, and the notes you take on scene will be necessary when you arrive in court to give testimony on the offense.

## **Summary**

The Field Arrest Citation is a valuable tool that will benefit you as a patrol officer. It is necessary for you to have a thorough understanding of when and how it can be used to enable you to become a high caliber police officer. The 61-D is useful in that it allows you to take police action for certain misdemeanor offenses while also ensuring you can remain on the streets and continue to patrol and prevent crime, as they are not as time consuming as custodial arrests. Even so, if an individual fails to appear to answer the 61-D, you must present an arrest warrant affidavit to the OAG. Remember that you have discretion when deciding to give a written warning for a violation of the law. When you evaluate the situation in its entirety



and come to the conclusion that a warning will suffice for the misdemeanor violation, it is more than within your realm of power to do so.