



# TALLAHASSEE POLICE DEPARTMENT GENERAL ORDERS

 Proudly Policing Since 1841	<b>SUBJECT</b>  Arrests and Alternatives to Arrest		 Nationally Accredited 1986
	<b>CHIEF OF POLICE</b>  <i>Signature on file</i>		
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## AUTHORITY/RELATED REFERENCES

FS 790.052, Carrying Concealed Firearms; Off-duty Officers  
 FS Chapter 901, Arrests  
 Florida Rules of Criminal Procedure, Rule 3.1.25, Notice to Appear  
 General Order 59, Transporting and Booking Procedures  
 General Order 69, Foreign Nationals and Diplomatic Immunity  
 General Order 71, Juvenile Civil Citation Program  
 General Order 72, Search and Seizure  
 CIB-12, Follow-up Investigations

## ACCREDITATION REFERENCES

CALEA Chapters    1, 74, 82  
 CFA Chapter        2

## KEY WORD INDEX

<b>Arrest and Alternatives to Arrest Processes</b>	Procedure II
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## POLICY

Department officers shall use reasonable judgment and appropriate discretion when making decisions which may lead to an arrest or an alternative to arrest.

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Officers shall abide by the United States Constitution, Florida Statutes and other applicable legal guidelines in all arrest situations.

### DEFINITIONS

**Bias Policing:** The selection of individuals for enforcement action based in whole or in part on a trait common to a group, without actionable intelligence to support consideration of that trait. This includes, but is not limited to race, ethnic background, gender or gender identification, sexual orientation, religion, economic status, age, cultural group or other identifiable characteristics.

**Off-duty:** When an officer is not engaged in on-duty or secondary employment activity.

**On-duty:** When an officer is working their regular duty assignment or any special assignment compensated by the Department.

**Secondary Employment:** Employment where an officer works for an entity other than the Department, and a condition of the employment is the actual or potential use of law enforcement powers by the employed police officer.

**Shall:** Indicates the described action is mandatory.

**Should:** Indicates the described action is not mandatory, but preferred.

### PROCEDURES

#### I. GENERAL GUIDELINES

- A. When effecting arrests, officers shall ensure those rights mandated by the United States Constitution are provided to the arrested person.
- B. When effecting arrests, officers shall obey the laws of arrest as outlined in FS Chapter 901 (Arrests).
- C. Officers shall not make any arrest decision based upon bias policing.
- D. The protocols of General Order 69 (Foreign Nationals and Diplomatic Immunity) guide officer actions regarding diplomatic immunity and certain notifications to federal entities and foreign government representatives.
- E. Officers shall document an arrest in an appropriately classified offense report.

**II. ARREST AND ALTERNATIVES TO ARREST PROCESSES**

- A. When probable cause exists to believe a person has committed a violation of criminal law or ordinance, on-duty police officers and officers working secondary employment should make a physical arrest.
  - 1. Officers shall handcuff all arrested persons (hands behind back) unless circumstances reasonably justify otherwise.
  - 2. When objectively reasonable, officers are authorized to utilize additional or other Department-approved restraint devices for the safety of the arrested person, the officer and others.
  - 3. After handcuffing, officers shall conduct a search incident to arrest as authorized in General Order 72 (Search and Seizure).
- B. In all arrest situations, the officer shall conduct a full and complete investigation of the incident while utilizing standard Department officer-safety protocols.

Decision Making Processes –

- C. It is the responsibility of officers to use reasonable judgment and appropriate discretion, including the consideration of such factors as listed in subsection D below, in making a determination to:
  - 1. Complete standard arrest processing (i.e., transport to a detention facility),
  - 2. Implement an alternative to arrest (see subsection L below), or
  - 3. Release the suspect with only a verbal warning.
- D. The factors for officers to consider include the ones listed below.
  - 1. The totality of the circumstances surrounding the criminal act, to include the victim's input (see subsection E below).
  - 2. The arrested person's level of cooperation during the arrest, handcuffing and subsequent search.
  - 3. The existence of any contraband or items of evidentiary value located during the search incident to arrest.

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4. The ability to establish the arrested person's identity.
  5. Any wanted, probationary or pre-trial release status of the arrested person.
  6. The arrested person's eligibility for participation in an alternative to arrest program.
- E. Officers should take into consideration the victim's desire to have the suspect arrested or not arrested, or to pursue criminal charges in court; however, the victim's input shall not:
1. Be the sole determining factor in whether or not an arrest is made, or
  2. Override any statutorily mandated arrest (e.g., FS 741.29, Domestic Violence).
- F. Except when approved by a named representative of the State Attorney's Office (SAO), or lieutenant or higher rank, officers shall always make arrests when:
1. Probable cause exists to believe a person has committed a felony, or
  2. A person has an outstanding warrant or active capias.
- G. In the decision to make or not make an arrest, officers should not consider the possibility the suspect may:
1. Not be prosecuted, or
  2. Be used as a confidential informant.
- H. There may be situations where probable cause exists for the arrest of a suspect, but circumstances might cause officers to not make an arrest. Some of these circumstances include:
1. When the arrest would cause a greater risk of harm to the general public than not arresting the suspect (e.g., the suspect in a minor offense takes refuge in a large, volatile crowd).

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2. When police resources are limited and there is a large volume of high priority calls for service (e.g., making an arrest for a minor offense in which the City or State is the victim during an extremely busy shift would take too much valuable officer time).
  3. When referral to a recognized diversion program seems a more appropriate and reasonable course of action.
- I. Even if an arrest is not made at the time of the criminal act, officers may obtain arrest warrants for suspects whom they have probable cause to believe committed a crime.
- J. Officers shall not make arrests outside their jurisdiction, except in:
1. Fresh pursuit of a suspect for a violation occurring inside their jurisdiction, or
  2. Mutual aid situations.
- K. If officers have questions or doubts about making or not making an arrest they should seek the counsel of a supervisor (if supervisors have questions, they should seek the counsel of the Legal Advisor).

### Alternatives to Arrest –

- L. It is the policy of the Department that when allowed by Florida Statute, this written directive, and reasonable to do so, officers should implement an alternative to arrest.
1. The preferred method of an alternative to arrest for adult arrestees, in descending order of preference, is as follows:
    - a. Pre-arrest Diversion Program (section III below).
    - b. Notice to Appear (section IV below).
  2. For juvenile arrestees, the issuance of a Juvenile Civil Citation is the available alternative to arrest. See General Order 71 (Juvenile Civil Citation Program).
  3. Unless needed to de-escalate the situation, officers shall not mention the possibility of an alternative to arrest to the arrestee until it is determined this is the most reasonable course of action at the conclusion of the investigation.

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### Arrested Person's Safety –

- M. When detaining or arresting any person who appears to be inebriated, intoxicated, not in control of their physical functions or exhibiting other unusual behavior, officers shall:
1. Attempt to reasonably assess the person in accordance with their training and experience to recognize the signs of a medical emergency,
  2. Examine the person to ascertain whether or not they are in possession of medic-alert identification (e.g., bracelet, necklace) specifically describing a medical disability or condition which would account for the actions of the person, and
  3. If such identification is found or if it is reasonably believed the person has an underlying medical condition:
    - a. Take immediate steps to ensure the person receives appropriate medical attention for the disability or condition, and
    - b. Continue to employ prudent security measures and officer safety tactics while supporting the patient status of the person.
- N. Officers are responsible for the safety and protection of arrested persons while in the custody of the Department and shall ensure arrested persons are:
1. Not left unattended, and
  2. Provided appropriate medical care for any known and/or observed:
    - a. Injury sustained during the arrest, or
    - b. Injury or illness unrelated to the arrest in a manner described in General Order 59 (Transporting and Booking Procedures).
- O. In situations when an arrested person is transported by ambulance to a medical facility an officer shall accompany the person in the ambulance.
1. Officers shall not provide handcuffs, handcuff keys, flex-cuffs, linear leg restraints or leg irons to EMS personnel in lieu of accompanying an arrested person being transported in an ambulance.

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2. An officer following an ambulance in a police vehicle does not constitute accompanying the person in the ambulance.

### Arrested Person's Property –

- P. Officers are responsible for any personal property in possession of, or under the control of, a suspect at the time of the arrest and shall ensure the property is either:
  1. Turned over to an authorized person of the arrested person's choice,
  2. Properly impounded, or
  3. Properly submitted to another agency.

### **III. PRE-ARREST DIVERSION PROGRAM**

- A. The Pre-arrest Diversion Program is managed by the State Attorney's Office (SAO).
  1. The program is intended to provide persons subject to custodial arrest or issuance of a Notice to Appear with an alternative to judicial prosecution.
  2. The program provides officers and prosecutors additional options when addressing a person's criminal behavior but does not supplant or limit the traditional criminal justice options available to officers, prosecutors or judges.
  3. It is the responsibility of the SAO to:
    - a. Determine if program participation is appropriate for the person,
    - b. Conduct all follow-up contact with the person regarding program participation,
    - c. Establish program requirements and conditions for the participant, and
    - d. Implement, at its discretion, any consequences for failure to abide by the program conditions and restrictions.

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4. Officers are responsible for adhering to the protocols of this section in the Department's support of the program.
5. An officer's responsibilities under the program are limited to:
  - a. Determining a person's eligibility for program participation,
  - b. If the person is eligible, making a recommendation to the SAO for participation in the program, and
  - c. Properly documenting the recommendation (see subsection I below).
- B. Except as outlined in subsection E below, an officer shall recommend the Pre-arrest Diversion Program (PDP) for a person when **all** the following criteria are met:
  1. The crime is a misdemeanor and is not one of the exceptions listed in subsection C below,
  2. There is no likelihood the criminal behavior might continue (i.e., persons or property endangered) if the suspect is not incarcerated, and
  3. The person:
    - a. Is an adult,
    - b. Has no prior criminal arrest history,
    - c. Did not resist arrest (nor is a response to resistance report required for interactions with the suspect due to their actions),
    - d. Is in possession of government-issued identification verifying their identity,
    - e. Resides within the Second Judicial Circuit (Leon, Franklin, Wakulla, Liberty, Jefferson or Gadsden Counties),
    - f. Is cooperative during the handcuffing process, subsequent search incident to arrest and any investigation, and
    - g. Agrees to sign the Pre-arrest Diversion Program form (PD 403), and accept a copy of the PD 403.



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- C. Officers shall not recommend a person for the PDP if they are subject to arrest for one or more of the following crimes:
1. Battery or other crime of violence,
  2. Violation of a court injunction,
  3. Loitering and prowling,
  4. Stalking,
  5. Driving under the influence,
  6. Exhibition of sexual organs, or
  7. Animal cruelty.
- D. A person's prior participation in the PDP does not prohibit an officer from recommending program participation to the SAO.
- E. In incidents where the person meets the criteria set forth in subsection B above, but the circumstances of the situation warrant the person not being offered the PDP, the officer shall explain the circumstances to a supervisor for consideration of approval to deviate from the PDP recommendation.
- F. When recommending a person for the PDP, the officer is responsible for:
1. Advising the person subject to arrest of the intent to recommend the person for the PDP, and
  2. If the person accepts the recommendation, providing the person with a copy of the completed and signed PD 403.
- G. If the person refuses to accept participation in the PDP and is arrested, the officer has the option to either:
1. Issue a Notice to Appear as outlined in section IV below or
  2. Transport the person to the Leon County Detention Facility (LCDF).

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H. The person's signature on the PD 403 attests to their agreement to PDP participation and officers shall issue Miranda Warnings prior to obtaining the person's signature on the form.

I. Offense Report Protocols –

The issuance of a PD 403 requires the completion of an offense report and officers are responsible for ensuring the report:

1. Is completed in a manner consistent with the report writing protocols set forth in General Order 46 (Rules of Conduct) and PTL-16 (Reports),
2. Contains details of the circumstances and probable cause for the incident,
3. Contains a statement recommending the person for the PDP and their acceptance of the PD 403, and
4. Indicates an "exceptionally cleared" disposition.

#### IV. NOTICE TO APPEAR ISSUANCE PROTOCOLS

A. An officer should issue a Notice to Appear (NTA) in lieu of a physical arrest upon making contact with a person who is subject to arrest when **all** the following criteria exist:

1. The crime is a misdemeanor,
2. There is no likelihood the crime charged might continue (i.e., persons or property endangered) if the suspect is not incarcerated,
3. There is no indication the person has previously:
  - a. Failed to appear/respond to a notice or summons, or
  - b. Violated the conditions of any pretrial release program, and
4. The person:
  - a. Is an adult,
  - b. Did not resist arrest (nor is a response to resistance report required for interactions with the suspect due to their actions),

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- c. Is in possession of government-issued identification verifying their identity,
  - d. Resides within the Second Judicial Circuit (Leon, Franklin, Wakulla, Liberty, Jefferson or Gadsden Counties),
  - e. Is cooperative during the handcuffing process, subsequent search incident to arrest and any investigation, and
  - f. Agrees to sign the affidavit and accept a copy of the NTA, and appear in court.
- B. A person issued an NTA shall not be transported to the LCJ for the offense charged in the NTA.
- C. The issuance of an NTA requires the completion of an offense report and officers are responsible for ensuring:
- 1. The NTA form and offense report are completed in a manner consistent with the report writing protocols set forth in General Order 46 and PTL-16, and
  - 2. The offense report indicates a “cleared by arrest” disposition.

### **V. OFF-DUTY OFFICER ARREST AUTHORITY**

- A. While off-duty, officers shall not make arrests in the situations listed below.
- 1. In their own quarrels, in those of their families or friends, or in disputes arising between their neighbors except in circumstances where the officer reasonably believes:
    - a. They are justified in using force to prevent injury or death to another person,
    - b. They are justified in using force in self-defense, or
    - c. A serious crime has been committed.
  - 2. For non-threatening crimes except when the violations are willful and repeated.

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3. For traffic violations except when officers reasonably believe an arrest must be made to prevent injury to themselves or another person.
  4. Outside their on-duty jurisdiction except as denoted in subsection II G above.
  5. When they are under the influence of alcohol or taking medication which impairs their judgment.
- B. To avoid confusion to suspects, citizens and responding officers, off-duty officers who are authorized to make an arrest shall do so only when in possession of appropriate Department identification, including, but not limited to:
1. Police identification card with officer photograph, and
  2. Department-issued or authorized police badge.
- C. Officers making an off-duty arrest when acting under the authority of this General Order and FS 790.052 (Carrying Concealed Firearms; Off-duty Officers) shall:
1. Be armed with a Department-approved firearm, and
  2. Not utilize any non-Department-approved firearm to make an arrest unless it is used to prevent the imminent great bodily harm to or death of themselves or another person.
- D. Off-duty officers who make arrests shall:
1. Summon on-duty officers as soon as practical,
  2. Ensure the appropriate arrest/booking paperwork is completed contemporaneous to the arrest, and
  3. Submit other required police reports within 24 hours of the arrest unless directed to do otherwise by an on-duty supervisor.

### **VI. ARRESTS WITHOUT A WARRANT**

#### General –

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- A. When making arrests without a warrant, officers shall comply with FS Chapter 901 and current federal and Florida case law.
- B. Officers shall not enter a dwelling or structure to make a warrantless arrest absent a valid exception to the search warrant requirement.

### Incarcerated Persons –

- C. The following protocols are applicable when an officer places any additional criminal charge on a person already incarcerated at the LCDF.
  - 1. Whether or not the officer conducts an interview of the inmate, the officer shall coordinate with detention staff to have the person brought to the booking area to be processed on the new charge(s).
  - 2. Officers may contact the LCDF in advance to schedule a time to meet the inmate in the booking area to be processed on the new charge(s).
  - 3. The officer is responsible for abiding by FS 901.17 (Method of Arrest by Officer Without Warrant) which mandates the officer “inform the person to be arrested of the officer’s authority and the cause of arrest.”

## **VII. ARRESTS WITH A WARRANT**

### Verification of the Warrant –

- A. Before making an arrest with a warrant, officers shall determine if:
  - 1. The person to be arrested is the one for whom the warrant is issued, and
  - 2. The warrant is valid.
- B. Officers shall use reasonable diligence to ensure the person to be arrested is the person named in the warrant. When in doubt, officers shall use simple and direct means of checking identification when such means exist (e.g., photographs, automated inquiries, fingerprint classifications, intelligence information).
- C. Officers shall verify the validity of all Leon County arrest warrants through the Justice Information System (JIS).

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- D. Officers shall verify the validity of non-Leon County arrest warrants through FCIC/NCIC.
- E. Officers may request a check or a verification of a warrant through the Consolidated Dispatch Agency (CDA).
- F. Officers shall verify arrest warrants and pick-up orders for juveniles by contacting the Juvenile Assessment Center (JAC).

### Extradition Considerations on a Verified Warrant –

- G. If there is no mention of an extradition status in FCIC/NCIC on a verified warrant, the officer shall transport the person to the LCDF.
- H. If there is a specific indication in FCIC/NCIC that the involved jurisdictional authority will not extradite the person, the officer shall not detain the person further unless there is some other authority to detain or arrest the person.
- I. Other than complying with the no-extradition information in FCIC/NCIC, officers do not have to confirm whether or not the involved jurisdictional authority will extradite a person on a verified outstanding warrant.

### Execution of an Arrest Warrant –

- J. Officers may arrest a person whom they reasonably believe has an outstanding arrest warrant; however, since FS Chapter 901 allows only sheriffs and their deputies to execute arrest warrants, officers shall deliver the arrested person to a deputy sheriff for execution of process. Delivery of an arrested person to the LCDF or the JAC meets the statutory requirement.

## **VIII. OBTAINING AN ARREST WARRANT**

- A. To obtain an adult or juvenile arrest warrant (pick-up order), officers shall adhere to the protocols listed below.
  - 1. Complete and sign the probable cause form and warrant affidavit.
  - 2. Ensure both the probable cause form and warrant affidavit are properly notarized.

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3. Provide the probable cause form and warrant affidavit to their immediate supervisor for:
    - a. Review and critique, and
    - b. Decision on whether or not State Attorney's Office (SAO) review is warranted.
  4. As needed or directed, contact the SAO for review of the probable cause.
  5. Deliver the approved probable cause form and warrant affidavit to a judge for review and signature.
  6. Pick up the signed paperwork from the judge and deliver it to the Leon County Clerk's Office to be logged in and entered into JIS unless approved by a Section Commander (lieutenant) to not be entered for a specific and articulable investigative purpose. Also see subsection B below.
  7. If the warrant is a traffic warrant, officers shall complete a Uniform Traffic Citation for the applicable charge(s) and attach a copy to the warrant.
- B. In situations where a Section Commander approves an officer not entering the warrant (as described in subsection A 6 above), it is the responsibility of the officer to deliver the warrant to the Leon County Clerk's Office within 14 days or contact the Section Commander for continued approval.
- C. The officer who originated the warrant shall complete an SAO arrest packet (file of all pertinent documents for prosecution of a criminal case) and submit it to the Criminal Investigations Bureau within 10 days from the date the warrant is issued.
- D. Officers are not responsible for sending arrest warrants to other jurisdictions. The LCSO Warrants Unit will send arrest warrants to sheriff's offices in other jurisdictions if there is a known address for the wanted person in the other jurisdiction.
- E. When obtaining an arrest warrant after regular business hours, officers shall contact the appropriate on-call CIB investigator and adhere to protocols set forth in CIB-12 (Follow-up Investigations) which include the following procedures:

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1. If an arrest warrant is signed by a judge after the regular business hours of the LCSO Warrants Unit and/or the Leon County Clerk's Office, the investigator shall contact the CDA and have the warrant entered into NCIC/FCIC as a "Temporary Warrant Entry," and
2. These temporary warrant entries automatically purge from the NCIC/FCIC system after 72 hours so the investigator must ensure the warrant is officially entered during regular business hours.

### IX. REPORT COMPLETION PROCEDURES

In addition to the other documentation protocols included in this written directive, officers are responsible for the report completion procedures listed below.

- A. When officers do not make an arrest in an incident, they shall still complete an offense report if any person involved in the incident could subsequently:
  1. Claim to be physically injured,
  2. Claim to have suffered a property loss, or
  3. Seek to pursue criminal charges against another person involved in the incident.
- B. When an officer is unable to implement an alternative to a misdemeanor arrest via the Pre-arrest Diversion Program or a Notice to Appear the officer is responsible for indicating the following in the offense report:
  1. The disqualifying reason(s) or the person's refusal to participate, and
  2. Any subsequent enforcement action.
- C. When an officer is prevented for making an arrest on an outstanding arrest warrant because the involved jurisdictional authority will not extradite the person, the officer is responsible for documenting the warrant and extradition information in an offense report.

History: previous title (*arrests*) – issued 07/15/1985, revised 03/01/1988, 06/30/1998, 11/15/2001, 10/06/2008, 06/19/2014 (*change of title*), 02/06/2015, 05/17/2016, 08/08/2017, 02/12/2018, 06/20/2019 and 09/09/2019.