



I. Policy

The policy of this department is to protect and serve the constitutional rights of all citizens when stopping, arresting or searching individuals while balancing the needs of law enforcement in solving crime for the protection of the community. The following Directive cannot address every situation, which an officer might encounter. However, in exercising arrest authority, officers should be guided by what is contained in this Directive. Nothing in this Directive should be interpreted as authorizing or restricting an officer's arrest authority.

The fact that a minor infraction of the law has been committed is not sufficient reason to justify an arrest. Officers should not only be concerned with what the law says, but with what the law was designed to accomplish. Laws generally serve as the tools given peace officers to be used to protect residents' rights and to maintain peace in the community. Officers of this Department should select the least intrusive or severe method, which accomplishes one or more of the following: stopping existing criminal conduct, removing the imminent threat of violence or criminal conduct, or preventing persons from endangering themselves or others.

This policy is based upon the idea that the use of an arrest, followed by prosecution, is not the exclusive method available to police officers and this Department. One of our concerns is the maintenance of public order, looking toward a preventive rather than a punitive approach to crime.

II. Definitions

- A. Probable Cause - Facts and circumstances based upon observations or information that would lead a reasonable law enforcement officer to believe that a crime has been or is being committed and the person to be arrested is the one who is or has committed the crime.
- B. Reasonable Grounds - As used in this policy reasonable grounds shall have the same meaning as probable cause.
- C. Reasonable suspicion (temporarily detain) - Facts and circumstances based upon observations or information, short of probable cause but based upon articulated facts that would lead a reasonable law enforcement officer to believe that criminal activity is afoot.
- D. Reasonable suspicion (Frisk) - Facts and circumstances based upon observations or information, short of probable cause but based upon articulated facts that would lead a reasonable law enforcement officer to believe that a person who is lawfully stopped is in possession of a weapon.
- E. Frisk (weapon) - A limited type of search where an officer may only conduct a search for weapons. With respect to a person, such a search is limited to a pat down of the subject's outer-clothing.
- F. Consensual Contact - An interaction between a member of law enforcement and the public that is voluntary in nature. The law enforcement member has shown no authority that would cause

a reasonable person to believe that they had no choice but to respond or comply with the officer's efforts. Under this type of contact, an officer has no power to detain an individual who chooses not to participate in the contact.

- G. Arrest - the taking of a person into custody so that he may be held to answer for the alleged commission of a public offense.
- H. Fresh Pursuit - shall include fresh pursuit as defined by the common law and the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony in this state. It shall also include the pursuit of a person suspected of having committed a supposed felony in this state, though no felony has actually been committed, if there is reasonable ground for so believing. Fresh pursuit as used here shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

III. Procedures

- A. Consensual Contact - An officer may approach anyone and attempt a consensual contact.
 - 1. An officer is not required to have reasonable suspicion for this type of contact.
 - 2. Officers may not take any steps through words or conduct to stop the person's movement under this type of stop.
 - 3. A person cannot be compelled in any way to participate in the stop
- B. Reasonable Suspicion Stops / Terry Stops – An officer who is aware of facts and circumstances that would lead a reasonable police officer to conclude that criminal activity is afoot, may stop a person, using reasonable force short of deadly force, and detain the person for a reasonable amount of time to investigate further.

A law enforcement officer lawfully present in any place may, in the performance of his duties, stop and detain any person who he reasonably suspects is committing, has committed, or is about to commit (1) a felony, or (2) a misdemeanor involving danger of forcible injury to persons or of appropriation of or damage to property, if such action is reasonably necessary either to obtain or verify the identification of the person or to determine the lawfulness of his conduct. An officer acting under this rule may require the person to remain in or near such place in the officer's presence for a period of not more than fifteen (15) minutes or for such time as is reasonable under the circumstances. At the end of such period the person detained shall be released without further restraint, or arrested and charged with an offense
- C. Frisk - An officer may conduct a limited frisk/pat-down of a person's outer clothing when the officer has reasonable suspicion to believe that a person who has been lawfully stopped is in possession of a weapon that poses a danger to the officer or others present.
 - 1. Items that may support reasonable suspicion:
 - a. The type of crime for which the stop is based is one that would lead a reasonable officer to conclude generally involves a weapon
 - b. The officer observes a Bulge in the subject's clothing that has the appearance of a weapon
 - c. The officer has information (anonymous tip merely providing description and location is not enough) indicating that a person is armed.
 - d. The officer is aware of the subject's history of carrying weapons.
 - e. The officer observes the subject reach as if reaching for, or reaching to hide a weapon (furtive movements)

2. Plain Feel
 - a. The officer is conducting a valid frisk; and
 - b. The officer feels an item which the officer knows is not a weapon;
 - c. The officer immediately recognizes the item as evidence or contraband without making a further intrusion. Squeezing or manipulating the item during the frisk would constitute a further intrusion under this section and would therefore invalidate the seizure.
3. The frisk is limited to a pat-down of the outer-clothing and does not include reaching into pockets etc. unless the officer feels an item during the frisk that the officer reasonably believes is a weapon

D. Arrest

1. An officer may arrest an individual for a crime that occurred in their presence or if the officer has probable cause to believe that, a felony or specified misdemeanor crime has been committed and probable cause to believe that, the person to be arrested is the person who committed that crime. Once probable cause is established, an officer may take custody of the subject and involuntarily transport the subject. Arkansas law also states that officers may arrest for certain misdemeanors that did not occur in their presence, such as acts of domestic violence, shoplifting, etc
2. Upon making an arrest, a law enforcement officer shall:
 - a. identify himself as such unless his identity is otherwise apparent
 - b. inform the arrested person that he is under arrest; and
 - c. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest
3. Authority to arrest without a warrant – A law enforcement officer may arrest a person without a warrant if: **[7.03]**
 - a. the officer has reasonable cause to believe that such person has committed a felony;
 - b. the officer has reasonable cause to believe that such person has committed a traffic offense involving:
 - c. death or physical injury to a person; or
 - d. damage to property; or
 - e. driving a vehicle while under the influence of any intoxicating liquor or drug;
 - f. the officer has reasonable cause to believe that such person has committed any violation of law in the officer's presence;
 - g. the officer has reasonable cause to believe that such person has committed acts which constitute a crime under the laws of this state and which constitute domestic abuse as defined by law against a family or household member and which occurred within four (4) hours preceding the arrest if no physical injury was involved or 12 (twelve) hours preceding the arrest if physical injury, as defined in Ark. Code Ann. § 5-1-102, was involved;
 - h. The officer is otherwise authorized by law.

Supervisor approval is required prior to transport on the following types of non-warrant arrests: All arrest where an officer is the victim, a traffic offense other than DWI/DUI, refusal to sign a citation or failure to identify. It is the responsibility of the supervisor to then determine the validity of the arrest.

4. Arrest with a warrant **[7.02]**
 - a. Any law enforcement officer may arrest a person pursuant to a warrant in any county in the state.

- b. A law enforcement officer need not have a warrant in his possession at the time of an arrest, but upon request, he shall show the warrant to the accused as soon as possible. If the officer does not have the warrant in his possession at the time of the arrest, he shall inform the accused of the fact that the warrant has been issued.
 - c. An officer may enter the home of the subject of an arrest warrant to search for the subject of the warrant in cases where the officer also has probable cause to believe the subject is home. Knock and announce rules apply and any search of the residence may only be incidental to arrest. Officers must obtain a search warrant before entering the residence of a third party in order to search for the subject of an arrest warrant unless exigency or consent exists.
 - d. Before officers of this Department forcibly enter a private residence to make an arrest, they must obtain the approval of a supervisor and, whenever possible, act only when the supervisor is present.
 - e. In order to provide for a safer method of serving high risk warrants and reduce the potential for injury, it shall be the policy of this department that a tactical response will be utilized when the following criteria are met:
 - 1. When the location in question is barricaded against entry or the suspect is inside a location, vehicle or hidden from view and refuses to submit to arrest
 - 2. There is reason to believe the suspect(s) is (are) armed and will use the weapon against law enforcement officers
 - 3. The suspect's background reveals a propensity toward violence
 - 4. There is no practical way the suspect can be arrested outside the location
- E. Authority to Arrest Outside of this Department's Jurisdiction: It is the policy of this department to assist local, state and federal law enforcement agencies in their legitimate law enforcement operations when requested. To provide such assistance, members of this department may travel outside this jurisdiction when requested by another law enforcement agency; under the terms of a mutual aid agreement; or when acting pursuant to applicable law. [\[7.04\]](#) An officer of this department may make an arrest outside of this department's jurisdiction within the State of Arkansas under the following circumstances:
- 1. Fresh Pursuit; (16-81-301) (also allows for entry into a private residence)
 - 2. Warrant for Arrest; (16-81-104; ARCP 4.2)
 - 3. When requested by the local law enforcement agency for assistance and the officer requested is from an agency that has a written policy covering arrests outside of his jurisdiction; (16-81-106 (c) (3)(4))
 - 4. When a county sheriff requests or grants permission for an officer from a contiguous county to come into the sheriff's county for purposes of investigating and making arrests for violation of controlled substances laws. (12-12-102)
- F. A full- custody arrest should be made in the following situations, when such arrest is authorized by law:
- 1. Where the threat of bodily injury to any person is imminent and cannot be removed by a lesser method of intervention;
 - 2. Where there is reason to believe the actor is, or has been, involved in a more serious offense and a full-custody arrest will serve to gather evidence of that additional offense
- G. Handcuffing – while investigating an offense or suspected offense, officers may handcuff individuals solely for the safety of the officer or others when it is appropriate, or when the risk of escape exists.

- H. Documentation of Arrest / Release
 1. An incident report is required anytime an officer arrests a person, whether or not handcuffs are applied, even if the person is subsequently released at or near the scene.
 2. This does not apply to temporary detention situations in which an arrest is not made.
 3. Persons arrested for a Class A misdemeanor or above must be fingerprinted (Ar. Code Ann 12-12-1006) and should be photographed each time they are arrested. The image is obtained digitally and attached to that arrestee by name and incident number in the computerized records management system. [\[13.22\]](#)
- I. Search Incident to Arrest
 1. When an officer arrests a person on the street, the officer may conduct a thorough search of the subject's person (not strip search) and the subject's immediate area of control.
 2. When possible and practicable, cross-gender pat-downs and searches will be conducted by an authorized person of the same sex as the arrestee.
 3. The purpose of this search is the following:
 - a. Protecting the officer from attack
 - b. Preventing the officer from attack
 - c. Discovering or seizing the fruits of the crime for which the person has been arrested
 - d. Discovering or seizing any instruments, articles, or things that are being used or which may have been used in the commission of the crime for which the person has been arrested.
 4. This search may include the subject's pockets as well as any items they are in possession of at the time of the arrest. (For search incident to arrest in home-see Policy 408)

IV. Suspect Identification [\[7.34D\]](#)

- A. In cases where a crime has just occurred and officers searching for the suspect have encountered a subject who resembles the description given, officers may contact that individual and detain them long enough to have one or more of the eye witnesses view them for the purpose of identification. Suspects should be presented to witnesses as they appeared when located by the officer (s) and shall not be required to put on clothing worn by the suspect or asked to say anything to the witness.
- B. Officers should escort the witness or witnesses separately – to where the suspect is located. (Do not take the suspect to the witnesses!). Some effort should be made to allow the witness to view the suspect outside of a patrol car without handcuffs, unless safety issues prohibit such.
- C. Witnesses should be allowed to view the suspect without any outside comment that may influence the witness and be instructed not to interact with the suspect. They should also be cautioned that the person they are viewing might not be the suspect. If there is more than one witness, the witnesses should view the suspect separately without influence from the other witnesses.
- D. Report documentation of the locating of the suspect and subsequent witness viewing should include details and descriptions given that resulted in the contact, as well as the identity of every subject so contacted (including unit video or photo), whether identified by the witness or not and any witness statements and level of certainty as to the identification.

V. Questioning & Miranda [7.06]

Whenever an officer initiates an interrogation of a person suspected of a crime, the individual shall be informed of their rights prior to questioning. A suspect's rights commonly referred to as a "Miranda Warning" should be given from a standard source, either a preprinted card or utilizing a departmentally issued Statement of Rights form.

Suspects should never be stopped from making voluntary statements. The Miranda warning is however, necessary if officers intend to interrogate or question the subject in a manner where the subject is likely to incriminate themselves. All questioning shall cease if the suspect no longer wishes to answer questions or requests an attorney.

VI. Special Types of Arrests

- A. Domestic
 - 1. Assault / Battery - Arkansas Ark. Code Ann. 16-81-113 and Ark Rule of Criminal Procedure 4.1 gives law enforcement the authority to make a warrantless arrest based on probable cause for felony domestic violence crimes, as well as authority to make a warrantless arrest for misdemeanor domestic violence if the officer has probable cause to believe the person committed those acts within the proceeding four hours if no physical injury was involved or twelve hours preceding the arrest if physical injury was involved.
 - 2. Protective Order – Arkansas Code Ann. 5-53-134 provides that an officer may arrest a suspect believed to have 'violated the terms of the order, even if the violation did not take place in the presence of the law enforcement officer.'
- B. Gas Drive Off - Arkansas Code Ann.16-81-114 gives law enforcement officers the authority to make a warrantless arrest based on probable cause for the theft of fuel within four hours of when the crime was committed.
- C. Shoplifting - Arkansas Code Ann. 5-36-116 provides that a law enforcement officer may arrest without a warrant upon probable cause for believing the suspect has committed the offense of shoplifting.
- D. Juveniles - Officers will be guided by, and comply with, current Department policy regarding the handling of juvenile offenders (see policy 411).
- E. Arrests by citizens - In the event that a private citizen has detained a suspect, officers will initiate all necessary reports and will ensure that a complete and impartial investigation is made so that the rights of the victim, and the accused, are protected and that the citizen will appear as a witness, and give a sworn statement of facts. For the purposes of this policy, private citizens include security guards and loss prevention agents.

VII. Arrest of Consular Officials or Foreign Nationals [10.22]

- A. The U.S. is obligated under the Vienna Convention on Consular Relations, international treaties, and customary international law to notify consular officials when foreign nationals are arrested or otherwise detained in the U.S.

- B. When a foreign national is arrested, determine the foreign national's country. In the absence of other information, assume this is the country on whose passport or other travel documents the foreign national travels.
- C. All foreign nationals of their right to have their consular officials notified concerning the arrest or detention. Consular officials have the right to visit their arrested or detained nationals unless the person objects to the visit.
 - 1. If a foreign national's country is not on the mandatory notification list, but the subject asks that such notification be made, the arresting officer will do so immediately by ensuring notification to the nearest consulate or embassy.
 - 2. If a foreign national's country is on the mandatory notification list, the arresting officer will, immediately ensure notification to the nearest consulate or embassy, regardless of whether the national requests such notification.
- D. Foreign consular officials enjoy varying degrees of immunity from arrest. Consular officials should carry an identification card issued by the United States Department of State. Instructions on immunity printed on the reverse side of the identification card will guide the officer's decision to arrest or detain the person. If an officer arrests an individual who claims diplomatic immunity, but who cannot produce an identification card, the officer should contact the Department of State at (202) 647-1985 from 8a.m. to 5p.m. Eastern Time and (202) 647-2412 at all other times.

VIII. Arrests Made by Other Agencies

- A. When an arrest is made by another law enforcement agency within the jurisdiction of the Jonesboro Police Department is asked for assistance, necessary assistance will be provided in compliance with Department policy governing relations with other law enforcement agencies.
- B. All follow-up investigations, booking, and filing of complaints will remain the responsibility of the arresting agency. The outside agency arresting officer is required to complete the necessary supplementary reports.

IX. Children in Custody of Arrested Persons

- A. When arrested persons have a child less than 16 years of age in their care, custody and control at the time they are arrested, it is the responsibility of the arresting officer and the immediately available supervisor to ensure the safe placement of the child.
- B. The arresting officer will first attempt to locate a competent adult, at the request of the arrested party, to come and take custody of the child. Should a competent adult be located, the officer shall identify the person with whom the child is being placed and complete a warrant and criminal history check to ensure the child is not being placed with a wanted or dangerous felon and document that information in the report.
- C. Should a competent adult not be located after a reasonable amount of time, the arresting officer may contact the Arkansas Department of Children and Family Services (DCFS) for placement.

X. Additional Information

The following Arkansas State Statutes, Rules of Criminal Procedure, and/or Written Directives govern the execution of the criminal process by members of the Department:

1. Territorial Limits – Frequently, persons are arrested on an outstanding warrant outside the Police Department’s jurisdiction. Some factors that should be considered include the location of the arrested, the nature of the crime, and available manpower.
2. Summoning Aid – A.C.A. 16-81-107 (d) states an officer making an arrest may orally summon as many persons as he deems necessary to aid him in making the arrest.
3. Use of Force – Written Directive 401- Use of Force will govern the use of force in the execution of an arrest warrant.
4. Rules of Criminal Procedure: Rule 4.2. - Authority to arrest with a warrant. Any law enforcement officer may arrest a person pursuant to a warrant in any county in the state.
5. Authority to Issue a Citation – Rule 5.2 of the Rules of Criminal Procedure: A law enforcement officer in the field acting without a warrant who has reasonable cause to believe that a person has committed any misdemeanor may issue a citation in lieu of arrest or continued custody.
6. Authority to Issue a Summons – Rule 6.1 of the Rules of Criminal Procedure: All officials having the authority to issue an arrest warrant may issue a criminal summons in lieu thereof in all cases in which a complaint, information, or indictment is filed or returned against a person not already in custody.
7. Service of Criminal Summons – Rule 6.3 of the Rules of Criminal Procedure: a criminal process may be served by any method prescribed for personal service of civil process or by certified mail, for delivery to the addressee only with return receipt requested.