

**GENERAL ORDER 1.3.1**

**Arrest**

**GENERAL ORDER CROSS-REFERENCE: 1.3.3**

**SUMMARY**

Establishes procedures for physical arrests.

**DISCUSSION**

During the normal course of duty, Springfield Police Officers are required to make a determination as to whether an arrest shall be made. This procedure provides a guideline for various types of arrests; i.e., probable cause, warrant, citizen, non-criminal custodies, etc.

It is the policy of the Springfield Police Department to observe the rights of those placed under arrest. Not only will this uphold the Constitutional guarantees officers have sworn to protect, it will also increase the likelihood that violators will be convicted and punished for their acts.

**POLICY**

**I**

**DEFINITIONS**

**Probable Cause:**

ORS 131.005 (11) states: "probable cause" means that there is a substantial objective basis for believing that more likely than not an offense has been committed and a person to be arrested has committed it.

**Arrest:**

Is the taking of a person into custody so that he may be charged with an offense.

**II**

In making an arrest, officers shall treat individuals with respect. Officers shall not physically mistreat or verbally harass any individual. Medical treatment shall be provided when the arrestee complains of injury or illness or the officer observes same.

Department policy requires an officer to advise a suspect of his Constitutional rights regarding self incrimination and counsel according to case law prior to a custodial interview. The

Department recognizes that current case law may alter the definition of a custodial interview, and officers shall comply with guidelines provided by the Lane County District Attorney's Office as to when a suspect shall be advised of his Constitutional rights.

### III

ORS 133.310 authorizes officers to make arrests without a warrant. Department policy shall follow the State statutory requirement, which is:

1. A peace officer may arrest a person without a warrant if the officer has probable cause to believe that the person has committed any of the following:
  - A. A felony.
  - B. A misdemeanor.
  - C. An unclassified offense for which the maximum penalty allowed by law is equal to or greater than the maximum penalty allowed for a Class C misdemeanor.
  - D. Any other crime committed in the officer's presence.
2. A peace officer may arrest a person without a warrant when the peace officer is notified by telegraph, telephone, radio or other mode of communication by another peace officer of any state that there exists a duly issued warrant for the arrest of a person within the other peace officer's jurisdiction.
3. A peace officer shall arrest and take into custody a person without a warrant when the peace officer has probable cause to believe that:
  - A. There exists an order issued pursuant to ORS 30.866, 107.095 (1)(c) or (d), 107.716, 107.718, 124.015, 124.020, 163.738 or 419B.845 restraining the person;
  - B. A true copy of the order and proof of service on the person has been filed as required in ORS 107.720, 124.030, 163.741 or 419B.845; and
  - C. The person to be arrested has violated the terms of that order.
4. A peace officer shall arrest and take into custody a person without a warrant if:
  - A. The person protected by a foreign restraining order as defined by ORS 24.190 presents a copy of the foreign restraining order to the officer and represents to the officer that the order supplied is the most recent order in effect between the parties and that the person restrained by the order has been personally served with a copy of the order or has actual notice of the order; and
  - B. The peace officer has probable cause to believe that the person to be arrested has violated the terms of the foreign restraining order.

5. A peace officer shall arrest and take into custody a person without a warrant if:
  - A. The person protected by a foreign restraining order as defined by ORS 24.190 has filed a copy of the foreign restraining order with a court or has been identified by the officer as a party protected by a foreign restraining order entered in the Law Enforcement Data System or in the databases of the National Crime Information Center of the United States Department of Justice; and
  - B. The peace officer has probable cause to believe that the person to be arrested has violated the terms of the foreign restraining order.
  
6. A peace officer shall arrest and take into custody a person without a warrant if the peace officer has probable cause to believe:
  - A. The person has been charged with an offense and is presently released as to that charge under ORS 135.230 to 135.290; and
  - B. The person has failed to comply with a no contact condition of the release agreement.

ORS 133.235 empowers all Oregon Peace Officers the authority to make arrests for offenses, pursuant to ORS 133.310, within the entire State of Oregon. Department policy recognizes this authority, but recommends discretion on the part of each officer. Generally, on-duty arrests will be made outside the boundaries of the City of Springfield only in the case of hot and/or fresh pursuit or while following up on crimes committed within the City of Springfield or while assisting another agency, or when acting under the terms of a special agreement that obligates the City to provide police services to areas outside the City limits..

Off-duty officers observing criminal activity should affect an arrest only when an imminent risk to life or property exists and the reasonable opportunity does not exist to contact the agency having jurisdiction. In this situation the involved officer shall clearly identify himself as a police officer.

Nothing in this procedure shall prevent an officer from using discretion on the alternatives to physical custody provided under policy 1.3.3, Alternatives to Arrest.

#### **IV**

#### **NON-CRIMINAL CUSTODIES**

A peace officer shall arrest and take into custody a person without a warrant under certain circumstances even though he has not committed a crime a crime has not been committed.

### **Non-Criminal Detoxification:**

ORS 430.399, (1) states: Any person who is intoxicated or under the influence of controlled substances in a public place may be taken or sent home or to a treatment facility by the police. However, if the person is incapacitated, the health of the person appears to be in immediate danger, or the police have reasonable cause to believe the person is dangerous to self or to any other person, the person shall be taken by the police to an appropriate treatment facility. A person shall be deemed incapacitated when in the opinion of the police officer or director of the treatment facility the person is unable to make a rational decision as to acceptance of assistance.

Persons taken into custody under this statute shall be transported to an authorized detoxification facility and released to their custody.

ORS 430.399(4) states: In the absence of any appropriate treatment facility, an intoxicated person or a person under the influence of controlled substances who would otherwise be taken by the police to a treatment facility may be taken to the city or county jail where the person may be held until no longer intoxicated, under the influence of controlled substances or incapacitated.

An incident and arrest report shall be completed on each person taken into custody under this Statute. The officer shall document the circumstances of the incident and the symptoms of intoxication or drug influence in the narrative of the report.

### **Police Mental Holds:**

ORS 426.228 (1) states: Any peace officer may take into custody any person who the officer has probable cause to believe is dangerous to self or to any other person and who the officer has probable cause to believe is in need of immediate care, custody or treatment for mental illness.

When an officer has reasonable grounds to believe a person needs care or counseling but does not require a mental hold, the officer shall advise the person of the appropriate agency or have the communication center notify the agency for the individual.

Persons in custody on a mental hold shall be transported to Sacred Heart University District Hospital for evaluation. The officer shall stay at the hospital until the evaluation is complete, or until the officer is relieved by another police or medical authority. If the evaluators determine the individual does not require further treatment the officer may leave the subject at the hospital or upon approval of the Watch Commander, return the subject to an appropriate site in Springfield.

Persons under a mental hold who require immediate medical attention shall be transported via ambulance to McKenzie Willamette or Sacred Heart Hospital depending on the injuries. In rare instances and upon approval from the watch commander the person may be transported in a department vehicle. It shall be the determination of the doctor examining the subject if he can be transported to the emergency room at Sacred Heart Hospital for psychological evaluation or secured at the hospital for treatment. If in-hospital security is required, it shall only be provided at the authorization of a command officer.

When an officer contacts an individual who may be in need of evaluation but does not appear to pose a threat to himself or others, the officer may arrange that the person voluntarily commit himself to the emergency room at Sacred Heart University District Hospital for evaluation and upon approval from the watch commander transport the individual to the hospital and release them. The officer may also arrange that a third party transport the individual to the emergency room at Sacred Heart University District Hospital for evaluation.

Where a person is under a police mental hold or voluntary commitment and is transported to the emergency room at Sacred Heart University District Hospital for evaluation an incident and arrest report shall be completed. A copy of the report shall be forwarded to Lane County Mental Health.

## V

### CITIZEN ARRESTS

ORS 133.225 states: (1) A private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime. A private person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer.

(2) In order to make the arrest a private person may use physical force as is justifiable under ORS 161.255 (Use of physical force by private person making citizen's arrest). [1973 c.836 §74]

An officer informed by a citizen that they desires to make a citizen's arrest shall review the circumstances to determine if there is probable cause for the arrest.

- A. If the arrest is accepted by the officer he shall:
  - 1. Obtain all appropriate information and complete the incident and arrest report.
- B. If the arrest is not accepted because of a question over probable cause, the officer shall document the incident in his report. A copy of the report shall be forwarded to the prosecutor's office,
- C. In shoplifting arrests, where the victim firm can ensure the maintenance of a proper chain of evidence, the property involved shall remain with the person making the arrest.

## VI

### JUVENILE ARRESTS

Department response to crimes involving juveniles will not differ from that for adult crimes. Officers may use any reasonable means to protect themselves when a juvenile is a threat to personal or public safety. Juveniles shall also be afforded the same Constitutional rights that an adult would have in the same circumstances.

Juvenile arrestees require different processing than adults. ORS 419c.080 states that a peace officer may take a juvenile into temporary custody in the following circumstances:

- A. When, if the youth were an adult, the youth could be arrested without a warrant; or
- B. When the juvenile court, by order indorsed on the summons as provided in ORS 419C.306 or otherwise, has ordered that the youth be taken into custody.
- C. In any order issued under subsection (1)(b) of this section that may result in a substitute care placement or detention, the court shall include a written finding describing why it is in the best interests of the youth to be taken into custody.
- D. A peace officer or person authorized by the juvenile court shall take a youth into custody if the peace officer or person authorized by the juvenile court has probable cause to believe that the youth, while in or on a public building or court facility within the last 120 days, possessed a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382.

ORS 419c.080 thru 419c.106 prescribe the procedure for juveniles taken into temporary custody. In general terms, this Statute requires that a peace officer must notify the parent, guardian or other responsible person of the custody as soon as practicable. The juvenile must be released to this person in most cases.

Department policy will follow the statutory requirements. If the responsible person can not be contacted, or there are extenuating circumstances, the officer shall contact the Lane County Juvenile authority and advise them of all pertinent information. At their direction, the juvenile will be transported to the Lane County Juvenile Detention Center, or another location if necessary, and the juvenile will be released into their custody.

An incident and arrest report will be completed, including the pertinent circumstances of the incident or custody, and a copy will be delivered to the person in charge of the Detention Center. The completed report will be submitted through the chain of command.

All juveniles arrested for traffic or game violations will be prosecuted as adults, unless otherwise notified by the Juvenile Court. If the arrestee must be lodged in a holding facility, it will be at the Lane County Juvenile Detention Center.

Department policy does not authorize the placing of juveniles into a cell in the Springfield Municipal Jail .

## VII

Pursuant to ORS 133.055, Springfield police officers, when at the scene of a domestic disturbance and having probable cause to believe that an assault has occurred between spouses; former spouses; adult persons related by blood ,marriage or adoption; persons cohabitating or who

have cohabited with each other; persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them for a petition under ORS 107.710; or unmarried parents of a child or that one such person has placed the other in fear of imminent serious physical injury, shall arrest and take into physical custody the alleged assailant or potential assailant.

Whenever a Springfield police officer has reason to believe that a family or household member has been abused as defined in ORS 107.705, the officer shall provide each victim with an "If You Are a Victim of Domestic Violence" Notice provided by the Lane County District Attorney. The officer shall also provide information for shelters or other resources available to the victim.

The victim should also be notified to contact the Lane County District Attorney's Office prior to 11:00 a.m. on the next court date.

## **VIII**

### **PEACE OFFICER AUTHORITY OUT OF STATE**

Peace officer powers of Springfield Police Officers do not extend beyond the State of Oregon except as provided for in the Uniform Act on Fresh Pursuit. Officers assigned to activities which take them outside the State of Oregon shall not engage in any police activities except as necessary to the performance of that duty.

## **IX**

### **DETAINING PERSONS**

Officers who temporarily detain a person in handcuffs shall document in a police report the justification and length of detainment.

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Richard L. Lewis  
Chief of Police