

FLORENCE POLICE DEPARTMENT GENERAL ORDER

Subject: ARREST PROCEDURES	Procedure: General Order 1.2.5 CALEA 1.2.5	Total Pages: 4
Authorizing Signature: Original with Authorizing Signature on File	Effective: 08/28/18	
	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Rescinds	

I. POLICY

It is the policy of this Department to abide by laws pertaining to arrest, as provided by federal or state law.

II. PURPOSE

This written order establishes guidelines and procedures for sworn personnel regarding arrests.

III. SCOPE

This written order is applicable to all sworn personnel.

IV. RESPONSIBILITY

It shall be the responsibility of all sworn personnel to comply with this directive.

V. DEFINITIONS

- A. VIOLATION: Code of Alabama 1975, 13A-1-2 (2) “An offense for which a sentence to a term of imprisonment not in excess of 30 days may be imposed.”
- B. MISDEMEANOR: Code of Alabama 1975, Title 13A-1-2 (3) “An offense for which a sentence to a term of imprisonment not in excess of one year may be imposed.”
- C. FELONY: Code of Alabama 1975, 13-1-2 (4) “An offense for which a sentence to a term of imprisonment in excess of one year is authorized by this title.”
- D. ARREST: The act of taking an offender or suspected offender into custody and imposing restraint upon him with formal notification that he/she is “under arrest.”
- E. CUSTODY: The involuntary restraint of a person for investigative reasons (i.e., interviews and interrogations). Under current case law there is no universally accepted definition of custody, therefore each incident is subject to case-by-case scrutiny.
- F. PROBABLE CAUSE: Facts and circumstances that would lead a

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reasonable and prudent person to believe that a crime has been or is about to be committed and the person being accused is the person who committed the crime. Mere suspicion is not enough to justify an arrest.

VI. PROCEDURES

An officer may make an arrest when a crime is committed in his/her presence, when a warrant has been issued, and when an officer has probable cause to believe a felony has been committed and the person to be arrested committed the crime.

1. **WITH A WARRANT:**
 - A. Any officer may take a person into custody upon verifying that a hard copy of a warrant for the same person exists, so long as the warrant has been signed by a magistrate or judge.
 - B. Officers should make reasonable effort to verify the identity of the person in custody is the same person listed on the arrest warrant. Reasonable efforts could include, but are not limited to verifying:
 - 1) date of birth
 - 2) social security number
 - 3) physical description
 - 4) scars, marks, or tattoos
 - 5) or by comparing photographs
 - C. Upon arrest, the warrant(s) is to be signed and executed by the arresting officer.
 - D. An arrest report will be completed. The warrant number should be recorded in the arrest report.
2. **WITHOUT A WARRANT:** Authorization for making an arrest without a warrant is prescribed in the Code of Alabama 1975, Title 15-10-3:
 - A. Section (a): “An officer may arrest any person without a warrant, on any day and at any time for”:
 - 1) Subsection (1): “Any public offense committed or breach of the peace threatened in his presence”;
 - 2) Subsection (2): “When a felony has been committed, though not in his presence, by the person arrested”;
 - 3) Subsection (3): “When a felony has been committed and he has reasonable cause to believe that the person arrested committed it”;
 - 4) Subsection (4): “When he has reasonable cause to believe that the person arrested has committed a felony, although it may afterwards appear that a felony had not in fact been

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committed”;

- 5) Subsection (5): “On a charge made, upon reasonable cause that the person arrested has committed a felony”;
- 6) Subsection (7): “When he has reasonable cause to believe that a felony or misdemeanor has been committed by the person arrested in violation of a protection order issued by a court of competent jurisdiction.”

3. Officers may make an arrest for offenses classified as misdemeanors that were not committed in their presence under the following circumstances:

A. Code of Alabama 1975, Title 15-10-3 Section (a) subsection (8): “Whenever an offense involves domestic violence as defined by this section, and the arrest is based on probable cause, regardless of whether the offense is a felony or misdemeanor.”

1) “Domestic Violence” is defined as “any incident resulting in the abuse, assault, harassment, or the attempt or threats thereof, between family, household, or dating or engagement relationship members.”

B. Code of Alabama 1975, Title 15-10-14 (b) “Any peace officer may arrest without a warrant any person he/she has probable cause for believing has committed larceny in a retail or wholesale establishments”;

NOTE: The taking into custody of the person must be done at the time of the offense, or immediately thereafter, and at the location of the larceny, or in close proximity to it. The purpose of this statute is so that the merchant or a merchant’s employee can recover the goods held for sale by taking the person into custody.

C. Code of Alabama 1975, Title 32-5-171: “(a) A law enforcement officer as defined in Section 36-21-40, may arrest, at the scene of a traffic accident, any driver of a vehicle involved in the accident upon personal investigation, including information from eyewitnesses, the officer had reasonable grounds to believe that the person by violating Section 32-5A-191 contributed to the accident. He or she may arrest such a person without a warrant although he or she did not personally see the violation.”

NOTE: It is important to remember that the arrest must be made at the scene. If the driver is located away from the scene, no arrest can be made under this statute (i.e. the driver cannot be arrested at the hospital once he/she has received treatment unless a warrant has been obtained).

4. After ascertaining that there is sufficient probable cause to indicate that a crime is in progress or has been committed; and the above elements have

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- been met; and that a specific individual is identified as a suspect, then an arrest may be made. After being arrested, the suspect will be advised he/she is under arrest and the charge(s).
5. **COMPLETING THE ARREST:** Restraint, use of force or injury, search, evidence, and transportation will be in accordance with existing departmental directives.
 6. **COMPLAINT:** If the arrest is for a violation or misdemeanor, the arresting officer will, after completing the proper report(s), complete the legal complaint and swear to or affirm the alleged actions of the arrestee, unless otherwise directed by legal process or written directive.
 7. **FELONY CHARGES:** If the charge(s) is for a felony, the officer will forward copies of the appropriate reports(s) to the Criminal Investigations Division for formal charges and to obtain the felony warrant(s) so that the appropriate legal proceedings may occur.
 8. **MIRANDA WARNING:** Officers shall advise any detainee of their Fifth Amendment rights against self-incrimination if the detained person is 1) in custody/not free to leave; and 2) questioned or interrogated about the offense/charge for which they are being detained.
 9. **VEHICLE INVENTORY AND IMPOUNDMENT:** Vehicle tow in procedures will be followed incident to an arrest.
 10. **BOOKING OF PRISONERS:** Officers will comply with the Lauderdale County Detention Center's rules of operations when processing arrestees.
 - a. Fingerprinting – Lauderdale County Detention center personnel will fingerprint all arrestees.
 - b. Photographing – Lauderdale County Detention center personnel will photograph all arrestees brought in to their facility.
 11. **REPORTS:** All reports must be completed prior to the end of the officer's shift and forwarded to the supervisor for review and approval. Reports are then forwarded to the Record's Division for data entry, distribution of copies, and storage.
 12. **PROCESSING EVIDENCE:** Officers shall immediately, or as soon as practical, process all evidence obtained during an arrest in accordance with applicable procedures and existing policy.