



TIVERTON POLICE DEPARTMENT

SUBJECT: Arrests	GENERAL ORDER NO. 300.00
	PAGES: 14
SECTION: 300- Law Enforcement Operations SUBSECTION: 00- General	AMENDS/SUPERSEDES: 4-3
PER ORDER OF: Patrick W. Jones, Chief of Police	EFFECTIVE DATE: 11/12/2014
	REVISED DATE: 04/23/2018
	REVIEW DATE: 04/23/2021
CALEA: 1.2.1, 1.2.6, 74.3.1, 74.3.2	
RIPAC: 2.3, 2.6	
DISTRIBUTION: Sworn Department Members	

NOTE: This written directive is for the internal governance of the Tiverton Police Department, and is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

I. POLICY

This policy sets forth the conditions under which arrests may be made by an officer of the Tiverton Police Department. The department expects officers to observe constitutional safeguards scrupulously and knowledgeably. The department further expects that officers understand the limits and prerogatives of their authority to act. Respect for the civil liberties of citizens shall be the paramount concern in all enforcement matters.

II. PURPOSE

The purpose of this general order is to establish guidelines, responsibilities, and procedures for arrests.

III. DEFINITIONS

- A. Reasonable Suspicion: Facts and circumstances that are sufficient to lead an ordinary, prudent and cautious officer to believe that criminal activity is afoot.
- B. Probable Cause: Facts and circumstances that are sufficient to lead an ordinary, prudent and cautious officer to believe that a crime has been, is being, or is about to be committed.

IV. CONSTITUTIONAL REQUIREMENTS, GENERAL

- A. Compliance with constitutional requirements during criminal investigations
 - 1. All officers when conducting criminal investigations shall take all precautions necessary to ensure that all persons involved are afforded their constitutional protections. Officers shall ensure that:
 - a. All statements or confessions are voluntary and non-coercive;
 - b. All persons are advised of their rights in accordance with this general order;
 - c. All arrested persons are taken promptly before a magistrate for formal charging;
 - d. All persons accused or suspected of a criminal violation for which they are being interrogated are afforded an opportunity to consult with an attorney.

V. PARAMETERS OF THE AUTHORITY TO ARREST

- A. The legally mandated authority of officers is defined in the General Laws of the State of Rhode Island and the Ordinances of the Town of Tiverton as they pertain to the enforcement of all State Laws and Town Ordinances.
 - 1. The State of Rhode Island has no statutory law which grants a police officer of a City or Town the general authority to act as a police officer throughout the State at all times.
 - 2. The Town of Tiverton has enacted a “Mutual Aid Agreement” with the Town of Little Compton, RI, the Town of Portsmouth, RI, the City of Fall River MA, and the town of Westport MA as provided in Rhode 250.Island General Laws 45-42-2. (*See General Order 250.00, Agency Jurisdiction and Mutual Aid*). The purpose of the agreements is to provide reciprocal police services across jurisdictional lines to enhance the capabilities of law enforcement to protect citizens and property in the mentioned areas.
 - 3. There is no statute in Rhode Island relating to Citizen’s Arrest, but the courts have held that the common law rule allowing such felony arrests would be followed.

VI. GOOD JUDGMENT, DISCRETION AND COMMON SENSE

- A. Sworn officers shall use good judgment, discretion and common sense when deciding whether any enforcement action shall be taken.
 - 1. When officers call a violation of law to a citizen's attention, they shall explain in a professional manner the reason for their actions, as it is a citizen's right to be informed.
 - 2. Arrests constitute the deprivation of a person's liberty.
 - 3. When an arrest is made, the justification must be sufficient to support the charge.
 - 4. Sworn members actions are to be professional, objective, and non-prejudicial.
 - 5. Physical arrests by officers shall only be made:
 - a. To protect lives and property;
 - b. To preserve the peace and prevent the commission of other crimes;
 - c. To protect a defendant in an action from injury or harm;
 - d. To execute a signed arrest warrant.

- B. Use of Discretion
 - 1. The use of discretion by individual officers shall be limited. The following are circumstances that may warrant the use of discretion:
 - a. Location of offense;
 - b. Time of day/evening;
 - c. Availability of witnesses;
 - e. Severity of offense;
 - f. Offenders criminal or driving history;
 - g. Traffic conditions where offense occurred;

- h. Offender's knowledge that an offense was committed;
- i. Offender's attitude toward the offense committed, or;
- j. Any circumstance determined to be acceptable by a supervisory officer.

VII. ARREST WITHOUT A WARRANT

- A. It is preferable to obtain a warrant prior to making an arrest, if time and circumstances allow. However, under Title 12 of the Rhode Island General Laws, an arrest without a warrant may be made during the commission of any felony or certain misdemeanors.
 - 1. Felony – a peace officer may, without a warrant, arrest a person for a felony, whenever:
 - a. The officer has reasonable ground to believe that a felony has been or is being committed and that the person to be arrested has committed or is committing it, or;
 - b. The person to be arrested in fact has committed or is committing a felony.
 - c. An officer may not enter a private dwelling to make a warrantless arrest for a felony unless exigent circumstances exist or the officer has the consent of an individual authorized to give consent to enter the dwelling. Absent consent or exigent circumstances, both an arrest warrant and a search warrant are required to arrest a person in the residence of a third party.
 - 2. Misdemeanor:
 - a. A sworn officer may, without a warrant, arrest a person for a misdemeanor if the officer has reasonable cause to believe that the person is committing or has committed a misdemeanor or a petty misdemeanor, and the officer has reasonable ground to believe that person cannot be arrested later or may cause injury to himself or herself or others or loss or damage to property unless immediately arrested.
 - b. To affect such an arrest within a private residence, entry shall be made only under exigent circumstances, with a search warrant, or with permission of the owner or occupant.

- c. The officer has reasonable grounds to believe a crime classified as Domestic Violence has occurred within twenty-four (24) hours of the time of arrest, as provided in the *Domestic Violence Prevention Act* of the Rhode Island General Laws.
3. The officer in charge at the police station may release any person in the station who has been arrested without a warrant (RI General Law 12-7-12).
 - a. Without requiring such person to appear in court, whenever the officer in charge is satisfied that there is no ground for making a criminal complaint against the person or when the person has been arrested for drunkenness but in the judgment of the officer need not be brought before a magistrate; or
 - b. If the arrest is for a misdemeanor, upon that person signing the department's Misdemeanor Release Form and a District Court Summons.
 - c. Any person arrested shall be afforded, as soon after being detained as practicable, not to exceed one (1) hour from the time of detention, the opportunity to make use of a telephone for the purpose of securing an attorney or arranging for bail. Such telephone calls shall be carried out in such a manner as to provide confidentiality between the arrestee and the recipient of the call (RI General Law 12-7-20). Officers shall record all offers to use the telephone and any actual use of the telephone in the arrest report narrative.

VIII. ARREST WITH A WARRANT

- A. Only sworn department members are authorized to execute arrest warrants. Arrest warrants may be executed anywhere within the State of Rhode Island with proper authorization from a supervisor.
 1. When executing arrest warrants in another jurisdiction, Department members shall request the assistance of that jurisdiction's police department or the Rhode Island State Police.
- B. An arrest warrant may be executed at any time of the day or night.
- C. Once an officer becomes aware that an arrest warrant is outstanding for a person, that officer shall make every effort to ensure that the person is apprehended, as soon as possible. This will also include bench warrants issued by the court.

- D. When making an arrest, the officer must announce that he/she is a police officer, and he/she must either show the warrant to the person or inform the person that a warrant exists, to include the nature of the charge(s).

IX. ON DUTY FOREIGN JURISDICTION

- A. On-duty officers may exercise their authority as police officers and arrest outside the Town in limited circumstances.
1. The Town of Tiverton has enacted a “Mutual Aid Agreement” with the Town of Little Compton, RI, the Town of Portsmouth, RI, the City of Fall River MA, and the Town of Westport MA as provided in Rhode Island General Laws 45-42-2. (*See General Order 250.00, Agency Jurisdiction and Mutual Aid*) The purpose of the agreements is to provide reciprocal police services across jurisdictional lines to enhance the capabilities of law enforcement to protect citizens and property in the mentioned areas.
 2. Under the common-law doctrine of fresh pursuit, (*See General Order 330.70, Pursuit Policy*) an officer may pursue a felon or suspected felon, with or without a warrant, into another jurisdiction and arrest him/her there. Through a reciprocal statute, Rhode Island Police Officers may arrest in the Commonwealth of Massachusetts after close pursuit for a felony. Once the arrest is made, the officer must immediately contact the Massachusetts agency in which the arrest occurred. Upon arrival of the appropriate authorities, the arrestee will be turned over. The arresting officer will request the arrestee is held in the State of Massachusetts as a Fugitive from Justice. An arrest warrant must be immediately completed and applied for. Upon approval of the arrest warrant, permission must be obtained from the Rhode Island Department of Attorney General allowing extradition. Once approval has been granted, the arrest warrant may be entered into the National Crime Information Center (N.C.I.C.) data base. The prosecution Officer shall be responsible for coordinating extradition with the Rhode Island Department of Attorney General, the Massachusetts Court system, and the Massachusetts agency maintaining custody of the arrestee. Additionally, by statute, officers in hot pursuit for violations of the Motor Vehicle Code within the State of Rhode Island may arrest outside the town but within the State of Rhode Island.
 3. Pursuant to RIGL 12-7-19: Arrest after close pursuit by officers from cities or towns—Any member of duly organized municipal peace unit of another city or town of the state who enters any city or town in close pursuit, and continues within any city or town in such close pursuit, of a person in order to arrest him or her on the ground that he

or she has violated the motor vehicle code in the other city or town shall have the same authority to arrest and hold in custody the person as members of a duly organized municipal peace unit of any city or town have to arrest and hold in custody a person on the ground that he or she he or she has violated the motor vehicle code in any city or town.

4. Officers responding to a request for emergency police assistance (mutual aid) from another police department within the state, shall be subject to the authority of the requesting Chief and have the same authority, powers, duties, privileges, and immunities as a duly appointed police officer of the city or town making the request until the requesting Chief of Police discharges and releases the assisting police officers to their own departments. (per RIGL 45-42-1)
 - a. Whenever officers of the Tiverton Police Department are requested to assist an outside department, the patrol Officer-in-Charge (OIC) will determine how many officers are sent based on the type of assistance requested.
 - b. If an outside department other than a bordering town or city, is requesting assistance, the OIC must contact the Uniform Division Commander (Captain), or the Chief of Police to obtain approval prior to sending any officers. The OIC will then complete a report to the Captain in reference to the assistance.
 - c. The following exception to this policy will apply:
 - (A) When the Tiverton Police Department is requested to assist an outside department for traffic duties only and the number of officers needed does not exceed two (2).
 5. Police officers assigned to any duly authorized agent of the state, on a temporary basis, may arrest outside the town of Tiverton consistent with the granted authority afforded to the agent of the state by statute.
- B. Sworn Department members shall provide all necessary assistance to the Rhode Island Department of Attorney General in arrests involving persons in a foreign jurisdiction and shall comply with the procedures contained in the *Extradition/Rendition Manual*, promulgated by the Department of Attorney General.
1. When an officer receives information that a person wanted in this State is either residing in or is being detained in another State, and the

Department of Attorney General authorizes extradition/rendition, the following procedure will be followed:

2. The investigating officer, with proper authorization from the Patrol Shift Officer in Charge (OIC), will contact the law enforcement agency that has jurisdiction where the wanted person resides or is being detained.
3. A National Law Enforcement Telecommunications System (N.L.E.T.S.) message, stating the crime(s) for which the person is wanted and confirming extradition/rendition, will be sent to the law enforcement agency.
4. Once arrested, the wanted person (fugitive) will be brought before the proper court in the jurisdiction where the arrest is made.
5. Members of the Tiverton Police Department shall respond to the jurisdiction where the fugitive is being detained and take him/her into custody under the following circumstances:
 - (1) The fugitive is being returned to Rhode Island pursuant to the issuance of a Governor's Warrant, or;
 - (2) A supervising Assistant Attorney General of the Department of Attorney General authorizes the Department to take the fugitive into custody.
6. Should the fugitive choose to challenge extradition/rendition, the Prosecution Officer will notify the Department of Attorney General Extradition Department, which will be responsible for initiating extradition/rendition proceedings and preparing a Governor's Warrant.
 - (1) It is the responsibility of the Prosecution Officer to periodically contact the Department of Attorney General to ensure that the Governor's Warrant is obtained and delivered to the proper authority, prior to the expiration of the 90-day holding period.

X. OFF-DUTY JURISDICTIONAL ARREST

- A. Off-duty officers may make off-duty arrests within the Town of Tiverton. Pursuant to this policy, officers have the authority to enforce criminal laws of the state and ordinances and regulations of the jurisdiction to which they are appointed.

1. Definition:

Personally involved: Where the off duty officer, a family member or a friend becomes engaged in a dispute or incident with the person to be arrested or any other person connected with the incident. This does not apply to situations where the police officer, him or herself, is the victim of a crime.

2. Commentary:

- a. Liability protection: The police officers of this police department have liability protection for on and off duty performance of their official duties. This protection does not extend to willful acts to cause injury or damage, or to those actions that the police officer knew, or should have known, were in conflict with the established policies or customs of the department.
- b. Permitted off-duty arrests: When off-duty and within the legal jurisdiction of the Tiverton Police Department, a police officer may make an arrest only when:
 - (1) The arresting officer is him/herself the victim of a crime;
 - (2) There is an immediate need for the prevention of a crime or the apprehension of a suspect;
 - (3) The crime would be charged as an offense requiring a full custodial arrest;
 - (4) The arresting officer is in possession of appropriate police identification.
- k. Off-duty responsibilities:
 - (1) While off duty within this jurisdiction, it is the responsibility of the police officer to immediately report any suspected or observed criminal activities to on-duty personnel;
 - (2) Except as allowed by this policy, off-duty officers should avoid, when possible, enforcing offenses or minor violations such as harassment, disorderly conduct, or other quality of life offenses;

- (3) On-duty personnel shall be contacted, in a timely manner, to respond to the situation where an off-duty officer becomes aware of such violations;
 - (4) When an arrest is necessary, the off-duty arresting officer shall abide by all departmental policies and procedures;
 - (5) When an arrest is necessary, the off-duty arresting officer shall identify him/herself as a Tiverton Police Officer, and when practical, present appropriate police identification;
 - (6) Whenever possible, an officer should avoid making an off-duty arrest when he is personally involved in the incident underlying the arrest.
- 1. Prohibited off-duty arrests: Police officers of this department may not make an arrest off-duty:
 - (1) When engaged in off-duty employment of a non-police nature, and the officer's actions are only in furtherance of the interests of him/herself or the private employer;
 - (2) When the arrest is made solely as enforcement of a minor traffic regulation.

XI. OFF-DUTY ARREST FOREIGN JURISDICTION

- A. The State of Rhode Island has no statutory law, which grants a police officer of a city or town the general authority to act as a police officer throughout the State at all times.
- B. There is no statute in Rhode Island relating to citizen's arrest, but the courts have held that the common law rule allowing such felony arrests would be followed.
- C. Off-duty officers, therefore, may not exercise their authority as police officers to arrest outside the Town of Tiverton.
- D. Off-duty officers of the Tiverton Police Department have no lawful authority other than that of a private citizen in the State of Rhode Island.

XII. ALTERNATIVES TO ARREST, PREARRAIGNMENT CONFINEMENT, AND PRETRIAL DETENTION

- A. Based upon their discretionary judgment, officers may use the following alternatives to arrest, pre-arraignment confinement, and/or pretrial detention:
1. Alternatives to arrest:
 - a. Verbal warnings;
 - b. Municipal Court summons;
 - c. District Court summons;
 - d. Emergency commitments to an approved public treatment facility for an individual with a psychological, alcohol dependent, or drug dependent condition, or;
 - e. Referrals to social service agencies.
 2. Alternatives to pre-arraignment confinement
 - a. Municipal Court summons;
 - b. District Court summons;
 - c. Emergency commitments to an approved public treatment facility for an individual with a psychological, alcohol dependent, or drug dependent condition;
 - d. Referrals to social service agencies, or;
 - f. Appearance before a Bail Commissioner, who may set bail and establish conditions of release.
 3. Alternatives to pretrial detention
 - a. Appearance before a Bail Commissioner, who may set bail and establish conditions of release.

XIII. ARREST PROCESSING

- A. All persons arrested by members of the Tiverton Police Department will be transported to headquarters and processed. *(See General Orders 350.10 Prisoner Search & Transportation, 350.20 Holding Facilities)*

- B. An arrest number will be issued through the Department's Records Management System (RMS) for all arrestees.
- C. All persons arrested will be processed, to include fingerprints and photographs. (*See General Order 350.20 Holding Facilities*)
- D. All arrests will be documented in a written arrest report generated through the Department's Records Management System (RMS). (*See General Order 350.20 Holding Facilities*)
- E. Prisoners will be searched in accordance with Department policy and procedure (*See General Orders 350.10 Prisoner Search & Transportation, 350.20 Holding Facilities*)
- F. The Patrol Shift Officer in Charge (OIC) shall ensure that prisoners' rights are protected, to include a prisoners right to counsel and right to a telephone call. (*See General Order 350.20 Holding Facilities*)

XIII. SPECIAL IMMUNITIES AND EXEMPTIONS FROM ARREST

- A. Diplomatic immunity is a principle of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and other authorities for both their official and, to a large extent, their personal activities. It should be emphasized, however, that even at its highest level, diplomatic immunity does not exempt diplomatic officers from the obligation of conforming to national and local laws and regulations. Categories of persons entitled to diplomatic immunity are as follows:
 - 1. Diplomatic Agent – enjoys the highest degree of privileges and immunity. Diplomatic Agents may not be handcuffed (except in extraordinary circumstances), arrested or detained for any criminal offense. Generally, they are immune from any civil suits, but are not immune from receiving a citation/summons for a motor vehicle violation, whether there is a pay-by-mail fine or required RITT hearing. Family members enjoy identical privileges and immunity.
 - 2. Diplomatic Administrative and Technical Staff – enjoy privileges and immunity similar to Diplomatic Agents. Diplomatic Administrative and Technical Staff may not be handcuffed, arrested or detained for any criminal offense. They enjoy immunity from civil suits arising in connection with the performance of their official duties. Officers may issue a citation/summons for a motor vehicle violation. Family members enjoy identical privileges and immunity.
 - 3. Diplomatic Service Staff – are accorded few privileges and immunities. Diplomatic Service Staff may be arrested or detained for

criminal offenses. They enjoy immunity from civil suits arising in connection with the performance of their official duties. Officers may issue a citation/summons for a motor vehicle violation. Family members enjoy no privileges or immunity.

4. Consular Officers – enjoy privileges and immunity from criminal and civil matters arising from their performance of official duties. Consular Officers may be arrested or detained, *pursuant to an arrest warrant*, for felony offenses. They may be prosecuted for misdemeanors, but may not be arrested or detained prior to trial or other disposition of charges. Officers may issue a citation/summons for a motor vehicle violation. Generally, family members enjoy no privileges or immunity.
5. Consular Employees – enjoy privileges and immunity from criminal and civil matters arising from their performance of official duties. Consular Employees may be arrested or detained for criminal offenses. Officers may issue a citation/summons for a motor vehicle violation. Family members enjoy no privileges or immunity.
6. Honorary Consuls – enjoy privileges and immunity from criminal and civil matters arising from their performance of official duties. Honorary Consuls may be arrested or detained for criminal offenses. Officers may issue a citation/summons for a motor vehicle violation. Family members enjoy no privileges or immunity.

- B. In accordance with Section 22-4-2 of the Rhode Island General Laws, members of the General Assembly shall be exempt from arrest *in any civil action* during the General Assembly session, including two days before the commencement and two days after the termination of the session.

XIV. REPORTING INCIDENTS INVOLVING THOSE WITH SPECIAL IMMUNITIES

- A. Reports of incidents involving criminal activity shall be mailed to the United States Department of State, 2201C Street, Northwest Washington, D.C., 20520 or United States Mission to the United Nations, 799 United Nations Plaza, New York, NY, 10017-3505.
- B. A copy of the citation/summons issued as a result of a motor vehicle violation, as well as any other document regarding the incident, shall be forwarded to the United States Department of State.
- C. For additional guidance in handling matters involving diplomatic privileges and immunity, officers shall refer to the “United States Department of State Consular Notification and Access” manual and “United States Department of

State Diplomatic and Consular Immunity Guidance for Law Enforcement and
Judicial Authorities” manual located at Dispatch.