

# COVINGTON POLICE DEPARTMENT

## STANDARD OPERATING PROCEDURE

**Subject: ARREST PROCEDURES**

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### **I. Purpose**

To establish guidelines governing the arrest and the booking of persons by officers of the Covington Police Department.

### **Authority**

Police officers for the City of Covington shall have the authority to arrest for violations of city code or violations of Official Code of Georgia occurring within the corporate limits of the City of Covington and shall schedule timely hearings or first appearance of the suspect in front of a judge or magistrate as prescribed by law. All police officers shall be responsible for the use or misuse of delegated authority.

### **II. Definitions**

**ARREST** - The restraint of the liberty of a person to come and go as he / she pleases, no matter how slight. An individual has been arrested when he is not free to go, regardless of whether formal words of arrest are used. An actual touching of a person with a hand is not essential to constitute a valid arrest. If the person voluntarily submits to being considered under arrest or yields on condition of being allowed his freedom of locomotion, under the discretion of the officer, the arrest is complete. (OCGA 17-4-1). [Georgia Code Chapter List](#)

Stop and frisk is generally a momentary detention and not considered to be an arrest, as actions constituting an arrest as defined by OCGA 17-4-1. Officers who see persons acting suspiciously may investigate and where appropriate, this may include a stop and frisk. Such an investigatory stop must be justified by some objective manifestation that the person is, or is about to be engaged in criminal conduct. Any momentary detention must be based upon a reasonable and articulable suspicion and must not be arbitrary or harassing in nature. Givens v. State, 218 Ga. App. 415 (1995); Terry v. Ohio, 392 US 1 (1968).

**ARREST WARRANT** - A written judicial command to arrest a particular individual and to bring the arrestee promptly before the magistrate issuing the warrant or some other judicial officer. There is no such thing as an oral or telephone warrant.

**INVESTIGATIVE DETENTION** - An Investigative Detention occurs when an officer, based on his or her natural senses, experience and good judgment determines that criminal

activity might be afoot and detains a suspect to that end. During identification by the officer, the suspect may be frisked if the officer has reason to fear for his personal safety. The suspect may be questioned without an arrest occurring.

**PROBABLE CAUSE** - A reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the party is guilty of the offense with which he or she is charged.

**WITHIN THE OFFICER'S IMMEDIATE KNOWLEDGE** - When, by seeing, or using any of the other senses, the officer has personal knowledge of the commission of a crime. This excludes reporting of a crime by any third party other than another law enforcement officer who has direct knowledge.

### **Arrest without a Warrant**

An arrest must be based on probable cause. OCGA 17-4-20 [Georgia Code Chapter List](#) sets out the situations in which an officer may arrest without a warrant. An arrest should not be made without a warrant, except for the exceptions listed below.

- A. When an offense is committed in the officer's presence or within his immediate knowledge.
- B. When an offender is endeavoring to escape
- C. When an officer has probable cause to believe an act of family violence has occurred. OCGA 19-13-1 [Georgia Code Chapter List](#)
- D. When for other cause, there is likely to be failure of justice for want of a judicial officer to issue a warrant.
- E. A fifth exclusion is to prevent the commission of a felony. This exclusion should only be utilized when the criminal act is imminent.

All of the above exceptions require timeliness. If enough time has passed wherein a warrant could have been obtained, the arrest without a warrant will not be upheld.

- F. Outside of the time restriction, a sixth exception is noted; that of a fugitive arrest, wherein there is no expectation of innocence. An officer has no official power to arrest without a warrant beyond the boundaries of his jurisdiction (except in hot pursuit, continuous and uninterrupted although an officer may temporarily lose sight of the suspect.)

### **Arrest with a Warrant**

- A. **Jurisdiction:** A warrant may be issued in any county in Georgia, even for a crime committed in another county. Once issued, a warrant may be carried from one county to another, and it may be served in any county of the state regardless where it was issued. An officer making a lawful arrest has the right to use whatever force is reasonably necessary to accomplish the arrest, but no more.
- B. **Contents:** A valid arrest warrant must contain specific information required by statute and court decisions.
  - 1. The authority under which the warrant is issued must be indicated.

2. The person who is to execute the warrant must be identified. (Generally addressed "to any Sheriff, Deputy Sheriff, Coroner, Constable, Marshal or Police Officer.")
3. The person to be arrested must be identified.
4. The offense committed is designated.
5. The time, date and place of occurrence of the offense must be given, including the county in which it was committed.
6. The person against whom the offense was committed must be identified.
7. The offense must be described.

When the offense charged is Theft, in addition, the warrant must contain:

8. The property alleged to have been stolen must be identified and described.
9. The owner must be named.
10. The value of the property must be given.
11. The person from whose possession it was taken must be named.

Note: Without strict compliance to the above, the warrant will not be valid.

#### **Procedure When Making an Arrest**

- A. Any person being arrested has the right to know that he is being taken into custody by an officer with lawful authority and the purpose for being taken into custody.
- B. Officers shall implement the following guidelines when making arrests:
  1. Be firm and calm.
  2. Further confrontations during an arrest can sometimes be avoided through the use of de-escalation techniques and other non-dynamic law enforcement tools when reasonable.
  3. Officers will seek, when reasonable, to slow things down but realize not every situation can be de-escalated.
  4. Avoid acting "tough" or using profanity.
  5. Use force only as necessary to subdue the subject and affect the arrest.
  6. After making the arrest, move away from the scene as soon as possible.
  7. Restrict the subject's movement during the arrest process.
  8. Do not grant any personal privilege to the prisoner.
  9. Examine requested clothing and other items for weapons or evidence before giving them to the subject.

10. Be aware of sympathizers near the scene of the arrest.

11. Expect the unexpected.

- C. The officers of this department have an affirmative duty to intervene if they witness a use of force that is clearly unreasonable. The officer, if he/she observes another officer exceeding the use of force, permitted by law, shall intervene to prevent the use of unreasonable force and if necessary, separate the person being arrested from the arresting officer. The Intervening officer shall promptly report these observation(s) and his/her actions to the supervisor.
- D. Officers have an affirmative duty to care for persons in their custody. Officers and supervisors are responsible for providing or obtaining appropriate medical attention to any person in their custody who is injured or complains of injury. This pertains whether injuries preceded custody, occurred during apprehension, or were sustained during custody, even if the arrested persons are believed to be feigning an injury, officers should still take the complaint serious and ensure medical attention is given.
- E. Additionally, officers have an affirmative duty to provide or obtain medical attention for members of the public who are injured because of police involved actions. Officers restraining a subject should be cognizant of, and avoid, positional asphyxia. This department prohibits prolonged face-down prone restraint. The officer should properly restrain the subject and place the subject in an upright position (sitting or standing) or side laying position.

#### **Officer Discretion/Alternatives to Arrest**

- A. What is reasonable in terms of an appropriate police action or what constitutes probable cause varies with each situation, and different facts may justify an investigation, a detention, a search, an arrest, or no action at all. There may be a report written or in some cases, when the offense is of a minor nature, a verbal warning or other direction may be given. Officers should exercise alternatives to physical arrest whenever possible either by verbal or written warning or citation. The requirement that legal justification be present imposes a limitation on an officer's action. In every case, an officer must act reasonably within the limits of his authority as defined by statute and judicial interpretation. Officers shall use their discretion in accordance with the prescribed departmental policies, and shall ensure that all arrests are conducted with utmost consideration to the safety of the officer, the arrested person, and the public. The decision to affect a physical arrest should depend on the following circumstances.
  - 1. Seriousness of the offense.
  - 2. Officer's evaluation of the offender's intent.
  - 3. Departmental policy.
  - 4. Complainant's willingness to press charges.
- B. No officer shall arrest any person under color of a warrant unless he reasonably believes a valid warrant exists and that the person described in the warrant is before him.

- C. No officer shall arrest any person without a warrant when he knows that he is without reasonable cause to arrest such person.

### **Immunity From Arrest**

- A. Consular Immunity - By treaty, Consular Officers of foreign nations are immune from arrest for criminal and traffic offenses unless ordered by a federal magistrate. Once identified, Consular Officers will not be unnecessarily detained. Consular immunity does not normally extend to members of consular officer's families or to employees of consular officers.
- B. Verification of Consular Immunity Status - In any situation in which a law enforcement official needs to establish entitlement to diplomatic immunity and the person asserting it cannot produce an identification card issued by the U.S. State Department, the correct status can be obtained through a telephone call. (Also see SOP P075, Diplomatic Immunity). [P075- Diplomatic Immunity.doc](#)
  - 1. During regular hours: Office of Protocol, U.S. Department of State:
    - a. For Diplomats and Families: (202) 647-1664
    - b. For Diplomatic Employees and Families: (202) 647-1405
    - c. For Consular Personnel and Families: (202) 647-1404
    - d. International Organizations: (202) 647-1402
    - e. Fax number for sending incident reports and citations: (202) 895-3613
  - 2. After hours:
    - a. Bureau of Diplomatic Security: 202-647-7277
    - b. State Department Operations Center: 202-647-1512 (Urgent matters after hours)
- C. Members of Congress - U. S. Senators and Representatives are free from arrest during their attendance in congress and in going to and from except for "treason, felony, larceny or breach of the peace".
- D. Members of the Georgia General Assembly - The members of the Georgia General Assembly are free from arrest during their attendance in the general assembly and in going to and from except for "treason, felony, larceny or the breach of the peace".
- E. Others normally exempt from arrest.
  - 1. Members of the militia during the performance of their duties.
  - 2. Poll officers during their attendance at election and in going to and returning from the same.
  - 3. Voters while casting their ballots.
  - 4. Witnesses on their way to and from court.

- F. An arrest involving any of the above will be made only upon the approval of a supervisor.

***This SOP supersedes any SOP previously issued.***

BY ORDER OF THE CHIEF OF POLICE:

*Stacey L. Cotton*

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Chief of Police