

## **Training**

1. No officer shall be issued or use the ECW until he has been trained in the unit and its use by a certified ECW Instructor or has received training from the ECW's manufacturer.

# **Jackson Police Department**

## **ARRESTS**

**SOP-22**

### **I. PURPOSE**

To establish uniform, lawful procedures that govern the method used by members of the Jackson Police Department in taking persons into custody both with and without an arrest warrant.

### **II. POLICY**

To recognize that, as the power to arrest deprives a person of liberty and freedom, it is one of the most serious responsibilities of an officer, and whenever possible, should be made with a valid arrest warrant. All constitutional and statutory rights will be afforded to an arrested person at the time of arrest and immediately thereafter.

### **III. DEFINITIONS**

- A. *Arrest* is defined as the taking a person into custody in order that he/she may be forthcoming to answer for the commission of a crime (NHRSA 594:1). To constitute an arrest, there must exist an intent on the part of the arresting officer to take the person into custody and a corresponding understanding by the person arrested that he/she is in custody. The arresting officer must have lawful authority to make the arrest and must exercise that authority in a lawful manner. The test for determining the moment of arrest is whether, under all circumstances, a reasonable person would believe that he is not free to leave.
- B. In addition to having lawful authority, an officer must also have probable cause to make an arrest. *Probable cause* means that based on all the facts and circumstances within the officer's knowledge, and of which he has reasonably trustworthy information, there is sufficient evidence to warrant a reasonable and prudent person to believe that the person

to be arrested has committed or is committing or attempting to commit a crime. The evidence required to make an arrest is more than suspicion, but less than that needed to support a conviction. It should be remembered that the ultimate goal of an arrest is the supporting conviction obtained in a court of law.

#### IV. ARREST WITH A WARRANT

- A. An arrest warrant is a document issued in the name of a legal authority and directed to officers authorized to serve criminal process, commanding them to take an individual into custody. (NH RSAs 594:7, 594:8, 594:9)
1. Only sworn law enforcement officers shall have the authority to exercise the power of arrest.
- B. Before an arrest warrant is issued, the following information must be provided:
1. The name, or a sufficient description of the persons to be arrested, must appear in the arrest warrant. So-called "John Doe" warrants, which do not contain a sufficient description, are illegal.
  2. An affidavit will accompany the arrest warrant setting forth the facts which establish probable cause for the arrest. The affidavit should also spell out the elements of the offense charged so that the issuing authority can review the elements. (*Cobb, case 1996*).
  3. A criminal complaint will be attached to the warrant and affidavit. A supervisor should review all the paperwork before an arrest warrant is issued, whenever possible.
- C. Unlike a search warrant which can only be issued by a judge, an arrest warrant may also be issued by a neutral and detached justice of the peace. All felony warrants will be signed by a judge and all misdemeanor warrants will be signed by a Justice of the Peace who is not a member of this Office.

[REDACTED] An arrest with a warrant may be made at any time and in any place throughout the State. [REDACTED]

[REDACTED] An officer's discretion should be used in determining at what time an arrest should be made, taking all circumstances into account. [REDACTED]

[REDACTED]

[REDACTED]

1. If a warrant is in existence, an officer does NOT need to have it in his possession to effectuate an arrest (RSA 594:9). In the event a person requests to see the warrant, it will be shown to the person as soon as practical.

[REDACTED]

5. Bench warrants issued by a District Court Judge do not need to be accompanied by an affidavit or complaint since the substance of the charge is present in the warrant itself. The same procedures for service apply to bench warrants.
6. After a person has been apprehended, the ORIGINAL warrant shall be signed and returned to the court of jurisdiction.

**V. ARREST WITHOUT A WARRANT**

- A. An arrest without a warrant merits close examination because of the subjective factors involved. Defense attorneys will be more likely to scrutinize an arrest made without a warrant. Also, if an unlawful arrest is made, any evidence seized as a result of the arrest will be declared inadmissible. A lawful arrest without a warrant can be made whenever an officer has reasonable grounds to believe that the person has committed a felony, misdemeanor or a violation in the officer's presence.
  1. This does not mean that the officer must see the crime committed. It is sufficient if, by the use of the officer's five senses, he can detect that the crime or violation has

been committed in his/her presence. However, all officers must be able to point to specific factors justifying an arrest without a warrant.

B. A warrantless arrest may be made when an officer has probable cause to believe that the person to be arrested:

1. has *abused* a family or household member as defined under the Domestic Violence statute within twelve hours (NH RSA=s 173-B:1; 549:10);
2. has, within the past twelve hours, violated a temporary or permanent protective order issued under NH RSA 173-B by committing an assault, criminal mischief or another criminal act;
3. has committed the crime of *stalking* as defined in NH RSA 173, within the past twelve hours and that the conditions for arrest without a warrant for that crime have been met;
4. unless immediately arrested, suspect will destroy or conceal evidence, cause *further* personal injury or property damage, or not be apprehended; or
5. has been involved in a *traffic accident* and has violated the provisions of NH RSAs 265:82, 265:82-a, dealing with DWI laws [Refer to NH RSA 265:83].

C. An officer **SHALL** arrest a perpetrator where the crime violated a restraining order (NH RSA 173-B:8, I a).

D. All officers should be able to point to specific factors justifying an arrest without a warrant. *Probable Cause* requires more than mere suspicion but less than that required to secure a conviction. Of great importance is the totality of the circumstances surrounding the arrest. The following factors may be used to establish probable cause:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

VI. ARREST ON A WARRANT FOR ANOTHER JURISDICTION

- A. Any valid arrest warrant issued by a New Hampshire Law Enforcement Agency may be served by a sworn officer of this Office.
- B. Whenever possible, a copy of the warrant and associated paperwork should be obtained prior to effectuating the arrest. In any event, verification that a warrant exists must be made prior to effectuating an arrest.
- C. Upon arrest for a felony, misdemeanor or bench warrant for another jurisdiction, the following procedures will be adhered to:

[REDACTED]

- D. If a warrant is from a Law Enforcement Agency outside of the State of New Hampshire, an arrest will be effectuated only if it is a felony. The following procedures will be adhered to:

[REDACTED]

5. Upon confirmation, the person will be arrested as a Fugitive from Justice. All paperwork will be forwarded to the County Attorney's Office for their information and any need for further action to be taken.

[REDACTED]

**VII. SAFETY**

A. It should always be recognized that there is no such thing as a *routine* arrest. Because of the unpredictability of human behavior, there is a potential element of danger in every arrest, and all officers must guard against this possibility. Life-threatening struggles have resulted from what appeared to be a simple arrest. Therefore, the following will apply in all arrest situations.

1. Upon arrest, an officer should avoid unnecessary conversation. All instructions or directions should be given in a clear, concise and COURTEOUS manner;
2. An arresting officer MUST identify himself as a Jackson Police Officer, and whenever possible the person arrested shall be EXPRESSLY informed of that fact (NH RSA 105:3-a);
3. Arresting officer should not act in a careless or routine manner, but instead, must take all necessary steps to ensure the safety of themselves and others. Such steps should include but are not limited to the following:

[REDACTED]

[REDACTED]

4. Force may only be used when there is resistance or a reasonable certainty of resistance. The amount of force will be restricted to that which is reasonable, necessary and proper under the circumstance (Refer to the Use of Force policy).
5. Upon arrest, it is the responsibility of the arresting officer to ensure that prisoners do not injure themselves, escape or dispose of evidence.

**VIII. OFF-DUTY ARRESTS**

- A. Off-duty officers may be faced with a situation involving criminal conduct that they are neither equipped nor prepared to handle in the same manner as if they were on duty [REDACTED]  
[REDACTED]  
[REDACTED]. Off-duty arrests will be permitted within the legal jurisdiction of the Office in the following situations:

[REDACTED]

[REDACTED]


[REDACTED]

- B. When making an arrest while off-duty, an officer, except in an emergency situation, must identify him/herself as a Jackson Police Officer by use of his/her badge or other credentials, unless the person being arrested is already aware that he is a police officer. It is good practice, therefore, for an officer to carry with him at all times his badge or some other identification of authority.

[REDACTED]

[REDACTED]

- D. Officers should refrain from making arrests in situations they are *personally involved*. This means that the officer was involved with the subject in a non-criminal dispute or other matter which has escalated to the point of a crime being committed. In such circumstances, on-duty personnel will be used to assess the situation. An exception is when the officer is himself a victim.
- E. It is the responsibility of all members to be alert to suspected or observed criminal activity and report such activity to the Office.

- F. When an off-duty arrest becomes necessary, the off-duty officer will abide by all Office policies and procedures. An arrest report will be made and reasons for the arrest will be noted in said report. Assistance should be sought from the local police department and the on-duty supervisor will be notified as soon as possible.
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#### IX. ALTERNATIVES TO ARREST

1. Written or oral warnings for motor vehicle violations.
2. Written summons when circumstances make a custodial arrest impractical or impossible.
3. Service of Civil Arrest Warrants.
4. The resolution of conflicts or disputes between citizens.
5. Utilization of social service agencies and medical facilities rather than the criminal justice system.