

	<b>RUTGERS UNIVERSITY POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM</b>		<b>9:1</b>
	<b>ARREST PROCEDURES - GENERAL</b>		
	<b>Effective Date: 01-05-2017</b>		<b>Supersedes: 9:1 (03-19-3012)</b>

#### **9:1-1 PURPOSE**

The purpose of this directive is to provide guidance to officers and codify standardized procedures regarding arrests and subsequent transportation.

#### **9:1-2 POLICY**

It is the policy of this agency to arrest persons in compliance with statutory and constitutional guidelines and to transport arrestees in a safe and efficient manner.

#### **9:1-3 GENERAL**

- a. This directive is intended to augment and not supplant existing criminal procedure. It provides basic guidelines in arrest and transport situations. Therefore, the vast abundance of case law with all of its nuances will not be listed. Arrests are governed by the 4<sup>th</sup> Amendment of the United States Constitution and Article I, section 7 of the New Jersey Constitution.
- b. An arrest may be defined as a substantial physical interference with the liberty of a person, resulting in apprehension and custodial detention. It is generally used for the purpose of preventing a person from committing a criminal offense, or calling upon a person to answer or account for an alleged completed crime or offense.
- c. An actual arrest occurs when a law enforcement officer intentionally employs physical touching of a person and delivers a formal communication of a present intention to arrest.
- d. A constructive arrest occurs without an intentional use of physical contact and without a formal statement indicating an intention to take a person into custody. The courts generally consider whether there has been a submission to the assertion of authority.
- e. When an individual has been arrested they will be processed for that arrest and the appropriate documentation presented to the court without unnecessary delay. When appropriate, bail will be set and the individual provided a reasonable opportunity to arrange for the posting of bail.
- f. Diplomatic and consular immunity from arrest is discussed in Directive 7:17.
- g. Required consular notifications are discussed in Directive 11:7.
- h. Required notifications to Immigrations & Customs Enforcement (I.C.E.) are discussed in Directive 9:2; section 9:2-9.

#### **9:1-4 ARREST WITH A WARRANT**

- a. An arrest warrant has the purpose of interposing a probable cause determination by a neutral and detached magistrate or judge between the law enforcement officer and the person to be arrested. Warrants include bench warrants, CDR warrants, ACS, ATS, and any other criminal process issued by a court.

- b. All pre-planned arrest warrants shall be de-conflicted in accordance with Directive 7:39 – Deconfliction. Deconfliction is not required for warrant arrests that occur spontaneously.
- c. Sworn police officers have the right to execute a warrant by arresting defendants at their homes or at any place within the State. When executing an arrest warrant outside of this agency's primary jurisdiction, officers should give prior notice to the law enforcement agency in that jurisdiction prior to execution, see Directive 2:16 Jurisdictional Responsibilities.
- d. To serve arrest warrants out of the State of New Jersey, contact the Extradition Unit of the appropriate County Prosecutor's Office.
- e. Officers should only use that amount of force necessary to affect the arrest. Unless impracticable, pre-planned warrant arrests shall be conducted by a minimum of two officers; more officers can be used depending upon the circumstances and anticipated flight risk.
- f. A search warrant or an exigent circumstance is required to affect a warrant arrest in a third party's dwelling (i.e. where the subject to be arrested is a visitor).
- g. No officer shall serve an arrest warrant without confirming or taking reasonable measures to confirm the validity of the warrant.
  - 1. The warrant should be verified and confirmed through the Automated Complaint System (ACS) and a printed copy of the warrant and warrant history should be obtained from that system.
  - 2. Warrants issued by the Municipal Court(s) frequented by this agency are to be considered valid and do not require additional confirmation.
  - 3. Members of this agency should not assist an outside agency with the execution of a warrant until such time as it has been confirmed that the warrant is valid.
  - 4. An NCIC/NJWPS hit is not probable cause to make an arrest. A confirmation request shall be sent to the agency that entered the person. A positive response by that agency will serve as confirmation of the warrant as per Part 7 of the National Crime Information Center Operating Manual.
  - 5. A printed copy of the request and response shall be included in the report of the incident.
  - 6. Whenever a warrant is executed, a CAD entry containing the necessary arrest information shall be generated for statistical purposes. Reports should be filed under the case number of the original incident prompting the warrant, if applicable; see Directive 13:2, §13:2-6 Investigative Continuity. When a member of this agency executes the warrant, the arrest will be documented by the filing of the appropriate reports in accordance with this directive.
  - 7. Communications personnel shall ensure the notifications are made to administratively execute served warrants in accordance with AOC and Prosecutor Guidelines.
- h. All requests from other jurisdictions to serve/execute their warrant(s) should be referred to the Duty Watch Commander or in his absence, the Road Supervisor.
- i. Before executing any arrest warrant, personnel should:
  - Verify the existence of a warrant either with an actual hard-copy of the warrant, facsimile, teletype, or current ATS/ACS printout

- Verify the identity of the person to be arrested
  - Understand the scope of the warrant so as not to exceed any limitations set by the warrant
- j. Arrest warrants are maintained electronically. The computer generated print-out will generally suffice as verification of a warrant and can act as a valid detainer. If it becomes absolutely necessary to obtain the actual warrant and the request cannot wait until normal business hours, lieutenants are authorized to enter the records bureau for immediate access. In the event this is impractical or otherwise unable to be accomplished, the necessity to recall Records Bureau personnel to obtain the warrant should be considered.
- k. When serving a special request arrest warrant from another jurisdiction, record the warrant number, jurisdiction name, and results in the appropriate report.

#### **9:1-5 ARREST WITHOUT A WARRANT**

- a. Officers may make a warrantless arrest of a suspect in any public place if there is probable cause to believe that the suspect has committed or is presently committing a crime punishable by more than one year in state prison (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degree crime).
- b. A police officer may make a warrantless arrest of someone who, in his [her] presence, has committed a disorderly persons offense or other minor offense that involves a breach of the peace. Officers should be guided by the provisions of Directives 1:7 and 7:11 regarding Police Discretion & Criminal Justice Diversion Programs, respectively.
- c. The word presence sums up the requirement that officers knew of the event by the use of any of their senses. A defendant's admission brings the offense within the presence of the officer.
- d. In certain circumstances, an officer may affect the warrantless arrest of a person whom the officer has probable cause to believe has committed a disorderly or petty disorderly persons offense, even though the offense did not take place in the officer's presence. These offenses are:
- Operating While Intoxicated (NJSA 39:4-50, 39:5-25)
  - Shoplifting (NJSA 2C:20-11e)
  - Theft of Library Materials (NJSA 2C:20-14b)
  - Domestic Violence (NJSA 2C:25-21) *as enumerated*
  - Camcorder Piracy of Motion Pictures (NJSA 2C:21-21g)
- e. As a general rule, an arrest for a violation of NJSA 39 (except DWI) is improper if the underlying offense poses little or no threat to the public safety, and if there is no reason to believe that the offender would fail to respond to a summons. (NJSA 39:5-25)

#### **9:1-6 CUSTODY & TRANSPORTATION**

- a. Immediately upon arrest all persons will be appropriately secured. At a minimum, they should be handcuffed and visually monitored by an officer unless handcuffing is not possible due to injury or disability. Handcuffs shall be double-locked and checked to ensure proper fit. Unless impractical due to injury, disability or physical size, handcuffs should be placed behind the back. Only a

supervisor may approve not handcuffing an individual for any reason. Officers should remain aware of the dangers of positional asphyxia and continually monitor arrestees for symptoms.

- b. The entire person of the individual taken into custody is to be searched for weapons, contraband, evidence and implements of escape, as is the area under that individual's immediate control, see Directive 7:58. **Note: A strip search/body cavity search is not authorized solely to satisfy the requirements under this section.**
  - The search must be thorough enough to ensure the safety of the individual, the arresting officer, and other officers and persons the individual may come in contact with while in custody.
  - In the event the area under that individual's immediate control is a motor vehicle, see Directive 7:58-6(f) for guidance.
- c. This search must be conducted contemporaneous to the (at the same time as) arrest immediately after the person has been restrained.
- d. After being restrained and searched the arrestee should be placed in the rear of a police vehicle equipped with a partition between the front and rear passenger compartments. The arrestee should be further secured with the vehicle's safety restraints. This further restraint will provide an additional level of security for the transporting officer(s).
- e. Arrestees shall not be left unattended after being placed into radio cars awaiting transportation. Officers must be constantly aware that other persons may attempt to free or otherwise facilitate an escape.
- f. Officers may transport the arrestee to police headquarters alone, but while being followed by another officer, whenever practicable.
- g. If no such equipped vehicle is available a supervisor shall assign a second officer to assist in transporting the arrestee. The second officer may sit in the front seat; but, that officer's attention should be focused on the arrestee. The second officer may also choose to ride in the rear seat, weapon side away from the prisoner.
- h. Generally, one arrestee should be transported within a vehicle even on incidents involving multiple arrests. If a supervisor determines that multiple arrestees can be transported within the same vehicle, a second officer should accompany the driving officer in the front seat; but that officer's attention should be on the rear seat arrestees. The number of prisoners shall not exceed the capacity of the safety devices (lap and shoulder harnesses) in rear seat area. Supervisors may be consulted to be determine the best means of transport, where appropriate.
- i. Arrestees are not permitted to communicate with anyone except a police officer during transportation or while waiting to be transported.
- j. Arrestees shall be transported directly to police headquarters, another law enforcement agency, or confinement facility as directed unless being taken to a medical facility for treatment.
  - There will be no stops made in order to obtain/secure funding for bail for an arrestee (i.e., local bank, ATM, relatives home, etc.).
  - Obtaining/securing of funds will be attended to without law enforcement assistance once the subject arrives at the police station/court.

- k. Arrestee transportation should not be interrupted for any reason except in extreme cases when the arrestee is stricken with a medical condition requiring immediate aid or vehicle crash involving the transporting vehicle. In that event, the transporting officer shall stop safely and should not remove the arrestee from the vehicle to render aid unless another officer is present to assist.
- l. Prior to commencing transportation officers shall advise communications personnel of the number of arrestees being transported, their gender, the starting location, their destination, and starting mileage. Upon arrival at their destination officers are to give their ending mileage.
- m. When commencing with a transport, officers should ensure the vehicle's Mobile Video Recorder is activated and should be positioned to capture the rear of the police vehicle. If this equipment is malfunctioning the road supervisor will be notified prior to initiating transport. *See Directive 10:16.*
- n. If an arrestee escapes while in custody prior to or during transportation:
  - 1. LE Sensitive [REDACTED]
  - 2. LE Sensitive [REDACTED]
    - 1. [REDACTED]
    - 2. [REDACTED]
    - 3. [REDACTED]
    - 4. [REDACTED]
    - 5. [REDACTED]
    - 6. [REDACTED]
    - 7. [REDACTED]
  - 3. LE Sensitive [REDACTED]
  - 4. LE Sensitive [REDACTED]
  - 5. LE Sensitive [REDACTED]
  - 6. LE Sensitive [REDACTED]
  - 7. LE Sensitive [REDACTED]
- o. If the transportation terminates at this department, the officer will bring the individual into the appropriately designated area(s).

#### 9:1-7 MEDICAL CARE FOR PERSONS IN CUSTODY

- a. If a prisoner is injured during the arrest process or otherwise requests/requires medical attention, the officer shall take immediate steps to summon qualified medical personnel to the location.
- b. In the event of any possible life threatening injury or illness during transport, the prisoner should be transported directly to an appropriate medical facility for treatment. ***Officers must remain aware that any request for medical treatment maybe a pretext for escape.***
- c. When ambulance transports becomes necessary:
  1. LE Sensitive [REDACTED]
  2. LE Sensitive [REDACTED]
  3. LE Sensitive [REDACTED]
  4. LE Sensitive [REDACTED]
5. A PTTR shall be completed documenting the transport of the prisoner for medical treatment.
- d. After arriving at the medical facility, an officer shall remain with the prisoner at all times unless prevented by a medical procedure.
- e. If a prisoner is released on his/her own recognizance while still being treated at the hospital, the officer is no longer required to remain there; however the canary copy of the PTTR shall be left with the attending medical staff.
- f. If a prisoner will be treated at the medical facility for an extended period the County Sheriff's Office should be contacted to determine if they can take custody of the prisoner.
- g. The officer should attempt to determine the final diagnosis of injury or illness. This should be documented in the investigative (or other appropriate) report.
- h. All injuries, illnesses and requests for medical assistance rendered shall be documented by the arresting officer and a Use of Force Report completed if appropriate.
  - *Officers are reminded to ensure the Use of Force Report(s) represent only those injuries sustained as a result of force used by members of this agency and not those resulting from other forces (i.e. assaults/injuries prior to police involvement).*

#### 9:1-8 REPORTING REQUIREMENTS

- a. All arrest incidents shall minimally require the following documentation:
  - Investigation report (note exception below)
  - Arrest Report
  - Evidence Report (if required)
- b. Preliminary Law Enforcement Incident Report (*when a CDR is issued*);

- c. Affidavit of Probable Cause (*when a CDR is issued*);
- d. Additional requirements are addressed at: Directive 9:2-8 & 9:2-10.
- e. Anytime a member of this police department places a prisoner into an agency vehicle to be transported or causes the transport of a prisoner (i.e. for medical evaluation); a Prisoner Transfer/Transportation Report (PTTR) is required.
  - 1. The only exception to this requirement is if the transport is precipitated by a fresh arrest by a member of this agency and the transport is limited only to directly back to an agency operated police facility. In the event the initial transport is to anywhere else; this reporting requirement attaches.
  - 2. This requirement also attaches for prisoners who are received from another agency and the custody of the prisoner is then transferred to this department (for example when picking up persons already in custody from another police department).
  - 3. Each leg of the prisoner's journey shall be document via a separate PTTR. For example, if a prisoner is transported from a department police facility to a medical facility, then back to the police facility and then to a county correctional facility; three (3) PTTRs would be required (one for each transport).
  - 4. A copy of the final PTTR shall be left with the department/facility to which the prisoner will be released by this department. The officer/employee receiving custody shall be requested to sign Box #50 of the PTTR prior to the release of the prisoner and being provided with a copy of the PTTR.
- f. A prisoner transfer report shall be completed whenever custody is transferred to/from agency, regardless of the reason. It is recognized that in those instances where custody is transferred, physically, within facilities of this agency, only select sections of the report will be completed. This report should accompany the case file, becoming part of the report jacket filed with the central records bureau.

#### **9:1-9 SUPPLEMENTAL PRISONER TRANSPORTATION**

- a. This section provides additional guidance in instances where prisoners already in custody and are being transported to and from this agency.
- b. Prior to beginning any transport, the officers assigned shall ensure that the vehicle being used is sufficiently fueled and contains the necessary ancillary equipment in the trunk (spare tire, jack, safety flares, etc.). For transportation over long distances, officers should be prepared to purchase fuel if necessary, receipt required. Reimbursement shall be sought through the chain of command.
- c. An EZ Pass transponder shall be taken, when required. Toll reimbursement is addressed in Directive 10:1.
- d. Interstate transportation will typically be performed by the respective County Sheriff's office. If this agency is called upon to assist, officers(s) assigned shall be briefed on and adhere to the Sheriff's policies and procedures.
- e. Prisoners being taken to or from a Medical Facility, Municipal Detention Facility, County Jail, State Prison, or other facility should generally be handcuffed in the back unless circumstances require handcuffing in the front. The circumstances may include, but are not limited to:

- Transporting to/from long distances
  - Disability
  - Potential for positional asphyxia (obesity, etc.)
- f. Special restraints are available in the shift supervisor's officer. These restraints include:
- Ankle shackles;
  - Belt with handcuff loop; and
  - Wrist to ankle chains.
- g. Nylon flex cuffs are authorized for incidents where the number of arrestees exceeds the number of available handcuffs or when the arrestee's injury, disability or physical size prohibits the use of handcuffs.
- h. Officers shall search the rear seat of vehicles being used for prisoner transportation prior to occupation by the prisoner(s). Vehicles should be searched again following transport.
- i. Prisoners being taken to/from any facility should be searched prior to being placed in a vehicle. **Do not assume** that the prisoner is free of weapons, contraband, evidence, or implements of escape.
- j. Each prisoner being transported to or from another detention facility should be positively identified as the person who is to be moved. Names, physical identifiers, photographs (if available), date of birth, fingerprints, etc. shall be verified beforehand.
- k. Prisoners should be transported in a vehicle equipped with a safety partition. Two officers shall perform the transport. The second officer shall sit in the front seat; however that officer's attention should be focused on the prisoner. Prisoners should be secured with the vehicle's safety restraints. This further restraint will provide an additional level of security for the transporting officers. If circumstances require that the second officer be seated in the rear seat with a prisoner, he/she shall sit with their non-weapon side closest to the prisoner.
- l. Prisoners are not permitted to communicate with anyone except a police officer during transportation or while waiting to be transported. Officers are reminded this restriction includes alternative forms of communicating (i.e. text messaging, sign language, additional languages, etc...)
- m. Prisoners shall be transported directly to the intended destination as directed unless being taken to a medical facility for treatment.
- n. Prisoner transportation should not be interrupted for any reason except in extreme cases when the arrestee is stricken with a medical condition requiring immediate aid or vehicle crash involving the transporting vehicle. In that event, the transporting officer shall stop safely and should not remove the prisoner from the vehicle to render aid unless another officer is present to assist or exigent circumstances exist (i.e. vehicle fire is imminent).
- Immediately notify communications center of the event and what type of assistance is needed;
  - Communications center shall direct the appropriate type and level of assistance, if local;



- If the transporting vehicle is in another jurisdiction, the communications center shall immediately contact the law enforcement agency with jurisdictional responsibility for assistance.
- o. If long range transportation is necessary, the prisoner should be directed to use the restroom facilities prior to transportation. Restroom stops are generally prohibited. Officers must remain aware that any request to stop may be a pretext for escape. If a restroom stop is required, officers should use the facilities at a state, county or local law enforcement agency and not public restrooms at highway rest areas.
- p. Officers shall not stop to eat or take breaks while transporting prisoners.
- q. Prior to commencing transportation officers shall advise communications personnel of the number of prisoners being transported, their gender, the starting location, their destination, and starting mileage. Upon arrival at their destination officers are to give their ending mileage. If out of radio range, use a telephone at the destination facility to relay this information and call a taped line. *(This may be accomplished via the MDC system if available.)*
- r. If a prisoner is being transported to another law enforcement agency or confinement facility, officers shall comply with all of that agency's rules and procedures concerning weapons storage.
- s. If the prisoner's destination is other than this agency,
  1. Restraints should not be removed until just prior to placing the prisoner in a cell or other secure holding facility
  2. All necessary forms, documentation, and prisoner property, shall be turned over to the receiving agency. This includes, but is not limited to:
    - Warrant(s) or copies thereof;
    - Personal property;
    - Commitment papers;
    - Medical records or unusual illnesses (if applicable);
  3. The name and title of the receiving official shall be documented in the PTTR/CAD record. The officer/official receiving the prisoner shall be requested to sign box # 50 of the PTTR confirming the transfer of custody.
  4. The receiving agency shall be provided with the canary copy of the PTTR in order to ensure the receiving agency is advised of any potential medical, suicide or security/escape hazards concerning the prisoner(s)
- t. If prisoners with special needs are being transported to an in-county facility, first notify the County Sheriff's Office to see if that agency can provide transportation.
- u. Do not assume that restraining devices are unnecessary for disabled prisoners, but, exercise discretion in restraining a disabled or injured prisoner for transportation. Depending on the degree of disability or the body parts or functions that are disabled, simple handcuffing in the front through a belt may suffice. Prisoners who cannot ambulate without crutches or cane(s) may be permitted to do so without restraint depending on their security risk. A wheelchair may be preferred to transport non-ambulatory prisoners where high security is warranted. The prisoner should be secured to the wheelchair. (EMS has wheelchairs in their inventory.)

- v. This agency does not provide special transportation to individuals in custody. Transporting prisoners in special situations; including, but not limited to: attending funerals, visiting hospitals and critically ill persons, or attending the reading of a will, will be handled by the respective County's Sheriff's Office.
- w. Prisoners being picked up at other locations and exhibiting signs of untreated injuries or illnesses or extreme intoxication should normally be refused before this agency accepts custody. Promptly notify a supervisor and document the matter.
- x. All supplemental prisoner transportations must be documented with a CAD record to fully account for the transporting officers' time. An Administrative Event entry is insufficient for these purposes. The name(s) of the prisoner(s) must be indicated in the Narrative field. The critical steps in the transportation process shall be so noted and recorded with Time Stamp feature. These critical steps include, but are not limited to:
  - Time of departure;
  - Time of arrival at destination;
  - Time of any other critical event during the transportation.
- y. Operational problems encountered while transporting prisoners shall be documented within the investigative document regarding the incident or on an operations report. These operational problems include, but are not limited to:
  - Prisoners who become sick or injured during transportation;
  - Agency vehicle crashes with prisoners on board during transportation;
  - Prisoner escapes (or attempts to escape);
- z. Administrative problems encountered while transporting prisoners shall be documented on an operations report. These administrative problems include, but are not limited to:
  - Inoperative or damaged restraints or equipment;
  - Intake problems at other facilities, etc.