

GENERAL MANAGEMENT

LIMITS OF AUTHORITY

Purpose: This directive outlines the limits of law enforcement authority delegated to officers of the North Little Rock Police Department pertaining to the enforcement of laws, statutes, and ordinances within their jurisdiction. It also establishes limits to officer discretion and provides guidelines for exercising such discretion.

Policy Statement: It is the policy of the North Little Rock Police Department that officers exercise only those powers and authority established by law within the discretionary limits as provided by policy and sound judgment.

Definitions:

Foreign National: Any person who is not a U.S. Citizen. The term *foreign national* and *alien* are used interchangeably. Resident aliens who have a resident alien registration card, commonly known as a "green card" are considered foreign nationals for the purpose of consular notification as are undocumented ("illegal") aliens.

Without delay: Term contained in the Vienna Convention on Consular Relations generally understood to mean there should be no deliberate delay, and that notification should occur as soon as reasonably possible under the circumstances. Nevertheless, notification to consular officials should be made within the first 24 hours of detention.

Self-assigned: Any unassigned action undertaken at an officer's discretion and without the knowledge or approval of a supervisor.

Covert investigation: Whether on or off duty, any surveillance, interview, interrogation, or fact finding inquiry to reveal violations of the criminal code or employee misconduct.

Summary of Changes:

Procedures

1 Jurisdiction and Authority

Officers of the North Little Rock Police Department will have, within the corporate limits of the City of North Little Rock, all the powers invested in law enforcement officers as described under Arkansas Code Annotated (ACA) 14-52-203 and 16-81-106. [CALEA 1.2.1]

1.2 In addition to their authority within the corporate limits, officers will have all the powers invested in law enforcement officers on all property owned by or leased to the City wherever located.

1.3 The federal Law Enforcement Officers Safety Act does not give North Little Rock Police Department officers law enforcement authority outside the jurisdictional boundaries as outlined in Arkansas law.

1.3.1 Although the act gives officers the right to carry a firearm, department issued firearms will not be carried out of the State of Arkansas except in the examples outlined in PD 11-3.

1.3.2 The City of North Little Rock will not defend an officer for any acts committed outside of the State of Arkansas in violation of this policy.

1.3.3 Officers outside the State of Arkansas have only the authority of any other private citizen. No acts outside the State of Arkansas under the color authority of employment with the North Little Rock Police Department are authorized.

1.4 Officers assigned to inter-jurisdictional task forces will have all the powers invested in law enforcement officers by virtue of their assignment.

2 Duties of Police Officers (ACA 14-52-203)

2.1 In cities of the first class (cities with a population between 50,000 and 150,000), the duty of the Chief of Police and other officers of the department shall be under the direction of the Mayor.

2.2 It shall be their duty to:

2.2.1 Suppress all riots, disturbances, and breaches of the peace;

2.2.2 Pursue and arrest any person fleeing from justice in any part of the State;

2.2.3 Apprehend any and all persons in the act of committing any offenses against the laws of the State or the ordinances of the City and forthwith bring the person(s) before the proper authority for trial or examination; and

2.2.4 Diligently and faithfully enforce at all times such laws, ordinances, and regulations for the preservation of good order and the public welfare as the city council may ordain. For this purpose they shall have all the power of constables.

2.2.5 Officers will also have the power to serve all civil and criminal process that may be directed to them by any officer of the court and may enforce the ordinances and regulations of the city as the mayor and city council may direct.

3 Arrest pursuant to a warrant [CALEA 1.2.5]

3.1 A law enforcement officer may arrest a person pursuant to a warrant in any county in the State; (Arkansas Rules of Criminal Procedure [ARCrP] Rule 4.2)

3.1.1 An officer who has knowledge that a warrant has been issued and has not been executed, but does not have the warrant in his possession may arrest the person named in the warrant at any time.

3.1.2 The officer must verify the warrant is still valid, must inform the person of the existence of the warrant, and must serve the warrant on the person as soon as possible.

4 Arrest without a warrant [CALEA 1.2.5]

4.1 A law enforcement officer may arrest a person without a warrant if the officer has reasonable cause to believe that such person has committed:

4.2.1 A felony;

4.2.2 A traffic offense involving:

4.2.2.1 Death or physical injury to a person; or

4.2.2.2 Damage to property; or

4.2.2.3 Driving while under the influence of any intoxicating liquor or drug;

4.2.3 Any violation of law in the officer's presence;

4.2.4 Acts which constitute a crime under the laws of this State and which constitute domestic abuse as defined by law against a family or household member and which occurred within four (4) hours preceding the arrest or twelve (12) hours for cases involving physical injury as defined in ACA 5-1-102(14) (ACA 16-81-113)) (ARCrP Rule 4.1)

4.2 In addition to any other warrantless arrest authority granted by law or court rule, a certified law enforcement officer may arrest a person without a warrant if the officer has probable cause to believe that the person has committed battery upon another person and the officer finds evidence of bodily harm; and the officer reasonably believes that there is danger of violence unless the person alleged to have committed the battery is arrested without delay. (ACA 16-81-106(2) (B))

5 Misdemeanor Arrests [CALEA 1.2.5]

5.1 In the case of a misdemeanor, the officer's presence at the time of the offense is required, with the following exceptions:

5.1.1 Acts of domestic abuse are involved which occurred within four (4) hours of the arrest or twelve (12) hours for cases involving physical injury as defined in ACA 5-1-102(14)).

5.1.2 The suspect has committed the offense of shoplifting. The officer, merchant, or merchant's employee who has observed the person accused of shoplifting will provide a written statement which will serve as probable cause to justify the arrest (ACA 5-36-116). Shoplifting presumption: ACA 5-36-102(b) states: "The knowing concealment, upon his person or the person of another, of unpurchased goods or merchandise offered for sale by any store or other business establishment shall give rise to a presumption that the actor took goods with the purpose of depriving the owner, or another person having an interest therein."

6 Off Duty Arrest [CALEA 1.2.5]

6.1 When off duty and within the legal jurisdiction of this department, a police officer may make an arrest only when there is an immediate need for the prevention of a crime or the apprehension of a suspect and the arresting officer is in possession of appropriate police identification.

6.1.1 Officers will not engage in vehicular pursuits while driving privately owned vehicles. The use of blue lights in a privately owned vehicle is prohibited. Making traffic stops while operating privately owned vehicles is prohibited.

6.1.2 No prisoner or arrestee, under any circumstances, will be transported in a privately owned vehicle.

6.1.3 If an off-duty arrest is made, the off-duty officer will abide by all departmental policies and procedures and will notify on-duty personnel as soon as possible.

6.1.4 Arrests should not be made when there is a conflict of interest, or a likely appearance of a conflict of interest. On-duty officers should be called to resolve the incident.

6.1.5 Officers of the North Little Rock Police Department will not misuse the arrest authority that has been delegated to them.

7 Statewide Arrest Powers [CALEA 1.2.5]

- 7.1 Municipal police officers have arrest powers anywhere within the State of Arkansas when they are working with the permission of or at the request of the municipal or county agency having jurisdiction as provided by ACA 16-81-106.
- 7.2 Officers will exercise out of jurisdiction duties only when authorized by the Chief of Police, division commander, or in the case of emergency, the ranking officer on duty.
- 7.3 The department has entered into cooperative agreements to provide support upon request by neighboring jurisdictions.
- 7.4 Officers will respond to an emergency call for immediate help from any officer within Pulaski County.
- 7.5 Routine assistance to agencies of bordering jurisdictions will be provided as resources allow, with supervisory approval, as has been our past practice.

8 Self-assigned Covert Investigations

- 8.1 No officer will commence on his own initiative a covert investigation outside the normal scope of the officer's assigned duties or while off duty without supervisory authorization. Under exigent circumstances involving a felony crime where a failure to act immediately would result in loss of critical evidence or apprehension of the suspect; and there being no time to seek supervisory approval, an officer may act and then immediately notify his supervisor.
- 8.2 If the subject of the investigation is a member of this department, notification will be in writing to a supervisor.

9 Alternative to Arrest

- 9.1 Circumstances of an offense may require that an arrest be made. The decision to arrest or not to arrest an individual is not up to the officer's discretion in many situations.
- 9.2 In some situations, however, an officer may use discretion in deciding whether or not an arrest should be made. The proper exercise of discretion does not relieve the officer of his responsibility to conduct a thorough investigation.
- 9.3 The Chief of Police will determine what measures (policy and procedures) will be enforced to influence officer discretion. Supervisors will monitor the use of discretion to ensure it is being exercised properly so our citizens receive quality law enforcement services. [CALEA 1.2.7]
- 9.4 The officer may weigh the seriousness of the offense and the surrounding circumstances and choose an alternative to arrest. Examples of alternatives to arrest include, but are not limited to: warnings, referral to help agencies, or referral to medical facilities. [CALEA 1.2.6]

10 Arrest Procedures [CALEA 1.2.5]

- 10.1 Upon making an arrest officers shall:
 - 10.1.1 Identify themselves (PD 4-5, 1.2.3),
 - 10.2.2 Inform the arrested person he is under arrest,
 - 10.2.3 As soon as possible under the circumstances inform the arrested person the reason for the arrest.
- 10.2. All arrests will be documented on a North Little Rock Police Department Incident Report with the exception of: [CALEA 1.2.5a]
 - 10.2.1 Public Intoxication and warrants served provided there are no additional charges.
- 10.3 In addition an Arrest Disposition Report and/or Criminal Citation will be completed as needed. [CALEA 1.2.5a]
- 10.4 Adults arrested for any felony or Class A misdemeanor will be taken to an appropriate facility to be photographed and fingerprinted. [CALEA 1.2.5b, c]
- 10.5 Juveniles arrested for any offense that if committed by an adult would constitute a felony or Class A misdemeanor in which violence or the use of a weapon was involved shall be taken to an appropriate facility to be photographed and fingerprinted. [CALEA 1.2.5b, c]
 - 10.5.1 In the case of an allegation of delinquency, a juvenile shall not be photographed or fingerprinted under this subchapter by any law enforcement agency unless he or she has been taken into custody for the commission of an offense that, if committed by an adult, would constitute a felony or Class A misdemeanor in which violence or the use of a weapon was involved. (ACA 9-21-320(a) (2)) [CALEA 1.2.5b, c]
- 10.6 Arrest of a foreign national: Under the Vienna Convention on Consular Relations certain countries either require notification when their citizens are arrested, or notification is up to the citizen.
 - 10.6.1 The arresting officer is required to notify the foreign national that he/she has the right to have us contact the national's consulate. [CALEA 1.1.4]
 - 10.6.1.1 For those countries where notification is optional, the arresting officer is required to notify the foreign national that we will notify their consulate if requested. If the foreign national requests notification, the arresting officer shall ensure that notification is given to the nearest consulate of the detainee's country without delay. [CALEA 1.1.4]

- 10.6.1.2 For those countries where notification is required; the arresting officer shall notify the foreign national that we will notify their consulate. The arresting officer shall ensure that notification is given to the nearest consulate of the detainee's country without delay. [CALEA 1.1.4]
- 10.6.1.3 A guideline for country consular notification and immunity as well as the forms to be used can be located on DHQ under the Documents tab.
- 10.6.2 The arresting officer shall document the notification in the incident report. [CALEA 1.2.5a]
- 10.6.3 The recommended method of notification is by fax. If fax is used, attach the fax and any responses to the incident report.
- 10.6.3.1 An updated list of consulates, phone, and fax numbers may be found online at the United States Department of State website: http://travel.state.gov/law/consular/consular_745.html
(Note: There is an underscore _ and no space between consular and 745)

11 Diplomatic and Consular Immunity

- 11.1 International law requires that law enforcement authorities of the United States extend certain privileges and immunities to members of foreign diplomatic missions and consular posts. The purpose of these privileges is not to protect the individuals but to ensure the efficient and effective performance of their official missions on behalf of their governments. Most of these privileges are not absolute, and law enforcement officers retain their fundamental responsibility to protect and police the orderly conduct of persons in the United States. There are 24 hour numbers that can be called to confirm if the person claiming immunity is a legitimate diplomat or consular official. If a person arrested claims immunity, the arresting officer shall call the appropriate contact number to confirm the arrested person's status and what immunities apply. [CALEA 1.2.5]
- 11.1.1 Diplomatic and consular immunities do not apply to traffic violations. Persons claiming immunity may be cited at the officer's discretion. Citations given to diplomatic and consular officials will be processed as any other citation. [CALEA 61.1.3d]
- 11.2 Any time a person claiming diplomatic or consular immunity is arrested or cited, the arresting officer will notify an on-duty patrol supervisor as soon as possible.

Patrick Thessing
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