



ARRESTS

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| <i>C.A.L.E.A.</i> 1.1.4, 1.2.5, 1.2.6, 1.2.7, 74.1.3, 74.3.1, 74.3.2 | <i>Reference</i> (see "INDEX AS:") |

INDEX AS:

Use of Force
Citations
Prisoner Transport

Arrests
Discretion
Domestic Abuse

I. PURPOSE

The purpose of this policy is to explain the procedures to be used when a person is arrested by members of the Iowa City Police Department.

POLICY

It is the policy of the Iowa City Police Department to conform with statutory and judicial requirements pertaining to arrests. The decision to arrest will be based on the facts surrounding the incident. Officers are to use the least restrictive, reasonable method to accomplish their goal.

II. DEFINITIONS

Iowa Code Section 804.5 is as follows:

Arrest defined.

Arrest is the taking of a person into custody when and in the manner authorized by law, including restraint of the person or the person's submission to custody.

III. PROCEDURES

ARREST WITHOUT A WARRANT

Authorization to arrest is contained in section 804.7 of the Code of Iowa. A Peace Officer is authorized to make an arrest in obedience to a warrant delivered to the peace officer, and without a warrant under the following conditions:

- A. For a public offense committed or attempted in the peace officer's presence.
- B. Where a public offense has in fact been committed, and the peace officer has reasonable grounds for believing that the person to be arrested has committed it.
- C. Where the peace officer has reasonable grounds for believing that an indictable public offense has been committed and has reasonable grounds for believing that the person to be arrested has committed it.
- D. Where the peace officer has received from the department of public safety, or from any other peace officer of this state or any other state or the United States an official communication by bulletin, radio, telegraph, telephone, or otherwise, informing the peace officer that a warrant has been issued and is being held for the arrest of the person to be arrested on a designated charge.
- E. If the peace officer has reasonable grounds for believing that domestic abuse, as defined in section 236.2, has occurred and has reasonable grounds for believing that the person to be arrested has committed it.
 1. As required by section 236.12, subsection 2. (Domestic Abuse Assault Provisions)

TREATMENT OF PRISONERS

In making an arrest, officers will use only that amount of force reasonably necessary to effect the arrest. Prisoners shall be treated with appropriate respect. Officers shall not physically mistreat or verbally harass any individual that they have taken into custody. Medical treatment will be made available when the arrestee is injured or complains of injury or in conformity to other general orders.

ARREST/CITATIONS

All persons charged for simple misdemeanors should be released on a promise to appear in court at a specified date and time, unless the officer has an articulable reason for a physical arrest of the subject (Juveniles shall be handled in accordance with departmental directives pertaining to juveniles).

Considerations for a custodial arrest instead of a cite and release are included in section 805.1 of the Code of Iowa.

Factors to be considered by the agencies in formulating the guidelines relating to the issuance of citations for simple misdemeanors not governed by subsection 2, shall include but shall not be limited to all of the following (see 805.1(3)(b) Code of Iowa):

- A. Whether a person refuses or fails to produce means for a satisfactory identification.
- B. Whether a person refuses to sign the citation.
- C. Whether detention appears reasonably necessary in order to halt a continuing offense or disturbance or to prevent harm to a person or persons.
- D. Whether a person appears to be under the influence of intoxicants or drugs and no one is available to take custody of the person and be responsible for the person's safety.
- E. Whether a person has insufficient ties to the jurisdiction to assure that the person will appear or it reasonably appears that there is a substantial likelihood that the person will refuse to appear in response to a citation.
- F. Whether a person has previously failed to appear in response to a citation or after release on pretrial release guidelines.

Additional factors to be considered relating to the issuance of citations or other offenses for which citations are authorized shall include but shall not be limited to the following concerning the person (see 805.1(3)(c) Code of Iowa):

- A. Place and length of residence.
- B. Family relationships.
- C. References.
- D. Present and past employment.
- E. Criminal record.
- F. Nature and circumstances of the alleged offense.
- G. Other facts relevant to the likelihood of the person's response to a citation.

Even if a citation is issued, the officer may take the cited person to an appropriate medical facility if it reasonably appears that the person needs medical care.

All persons arrested for simple misdemeanor traffic offenses should be released on a uniform traffic citation, scheduled to appear in court on a specified date and time, unless the officer has an articulable reason for the physical detention instead of a traffic citation.

INDICTABLE ARRESTS

Persons charged with a serious misdemeanor or above, shall be arrested and transported to the Johnson County Jail, unless a supervisor approves of other arrangements. For exceptions, refer to Appendix I. The transport of prisoners shall comply with departmental directives pertaining to prisoner transport.

TURN IN PROCESS

When arrangements have been made for a subject to turn him/herself in at a later date, the charging officer shall:

- A. Notify the Station Master of the date and time that the person will turn him/herself in;
- B. Advise the Station Master of the location of the charge(s);
- C. Fill out an arrest report as completely as possible and leave it with the charge(s).

The arresting officer will advise the subject of the charge(s) against him/her and transport him/her to the Johnson County Jail. The arresting officer shall complete the arrest report and check for any unserved warrants. They shall also record the name of the receiving officer on the arrest report.

ARREST WITH A WARRANT

Authority to arrest persons with a warrant is contained in Chapter 804 of the Code of Iowa.

Section 804.6 of the Code of Iowa is as follows:

Persons authorized to make an arrest.

An arrest pursuant to a warrant shall be made only by a peace officer; in other cases, an arrest may be made by a peace officer or by a private person as provided in this chapter.

Section 804.7(4) of the Code of Iowa authorizes arrests by a peace officer with a warrant. It is as follows:

Where the peace officer has received from the department of public safety, or from any other peace officer of this state or any other state or the United States an official communication by bulletin, radio, telegraph, telephone, or otherwise, informing the peace officer that a warrant has been issued and is being held for the arrest of the person to be arrested on a designated charge.

SERVICE OF ARREST WARRANTS

- A. When possible, the Department will attempt to serve a warrant within thirty (30) days of a warrant being received.
- B. Prior to the service of the warrant an assessment of the risk factors as defined in the SRT policies and procedure manual shall be made.
- C. Warrants will be prioritized as follow:
 1. Warrants for persons known to be violent or potentially dangerous;
 2. Felony warrants;
 3. Warrants for indictable offenses;
 4. Non-violent misdemeanor warrants.
- D. The officer serving the warrant shall confirm that the warrant is still active and the pickup limits of the warrant, prior to service of the warrant.
- E. All warrants shall be served by sworn officers.
- F. At least two (2) officers should be present when serving an arrest warrant.
- G. Officers shall activate their in-car or body-cam recording device when serving the warrant.
- H. Officers shall notify JECC of the pending action and its location. As appropriate other officers may be notified of the activity.
- I. When notified by another agency that it will be serving a warrant in Iowa City, a supervisor may send officers to assist in the serving of the warrant.
- J. Upon arresting a subject on a warrant, the officer will transport the subject to the Johnson County Jail unless otherwise specified.
- K. Prior to serving a warrant outside the corporate limits of Iowa City, the officer shall:
 1. Obtain the permission of a watch supervisor;
 2. Advise the JECC of the action;

3. Contact the local agency with jurisdiction and request the presence of a local officer during the arrest.

USE OF FORCE IN MAKING AN ARREST

Section 804.8 of the Code of Iowa defines the limits of the force, which may be used when making an arrest. In addition, members of the Iowa City Police Department shall be guided by departmental Use of Force directives when executing an arrest. 804.8 is as follows:

USE OF FORCE BY PEACE OFFICER MAKING AN ARREST.

A peace officer, while making a lawful arrest, is justified in the use of any force, which the peace officer reasonably believes to be necessary to effect the arrest or to defend any person from bodily harm while making the arrest. However, the use of deadly force is only justified when a person cannot be captured any other way and either:

- A. The person has used or threatened to use deadly force in committing a felony
or
- B. The peace officer reasonably believes the person would use deadly force against any person unless immediately apprehended.

A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which the peace officer would be justified in using if the warrant were valid, unless the peace officer knows that the warrant is invalid.

DISCRETION

The Iowa City Police Department recognizes that there are often alternatives to a custodial arrest. Since it is impossible to anticipate every such circumstance in which action should be taken, it shall be left to the officer at the scene to determine the degree of intervention necessary. When making an arrest, officers should use the least restrictive form necessary to obtain the desired objective.

- A. It is unrealistic to expect officers to enforce all laws and ordinances, regardless of the circumstances encountered. Officers must make the decision to arrest, cite, warn, or use other alternatives, based on applicable law, circumstances of the particular incident and directives from supervisors.
- B. Members of this department shall always act in accordance with the law and departmental rules and regulations. When discretion is employed it must be reasonable, defensible, and used to accomplish a police purpose.

Samuel Hargadine, Chief of Police

WARNING

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third-party claims. Violations of this directive will only form the basis for departmental administrative sanctions.

APPENDIX I

Officers may encounter persons who are at times granted exemptions to laws. When encountering these situations officers may follow these guidelines or if still unsure of the appropriate action, should contact a watch supervisor for further guidance.

Legislators are granted limited immunity from prosecution under Article 3 of the Iowa Constitution which states "Privileged from arrest. SEC. 11. Senators and representatives, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same."

Members of the National Guard are regulated under chapter 29A.41 of the code of Iowa. The code states, "A member of the national guard shall not be arrested, or served with a summons, order, warrant or other civil process after having been ordered to any duty, or while going to, attending, or returning from, any place to which the officer or enlisted person is required to go for military duty. This section does not prevent the officer's or enlisted person's arrest by order of a military officer or for a felony or breach of the peace committed while not in the actual performance of the officer's or enlisted person's duty. The articles of equipment personally owned by such members are exempt from seizure or sale for debt." Other members of the military, including members of the Army, Air Force, Navy, Marine Corps, Coast Guard, and reservists who are on active duties are likewise granted limited protection. When an occasion arises that requires the issuance of a traffic citation, a physical arrest or investigation of a motor vehicle crash involving a member of the armed services who is operating under conditions which offer this limited protection, the officer will notify a watch supervisor of the circumstance surrounding the incident. The watch supervisor will contact the office of the commanding officer of the military member involved and advise them of the incident.

Foreign diplomats and consular officials may be granted immunity. In these cases the officer should advise the person of the nature of the stop and make a determination as to if the person is able to safely continue on their way. In instances where the ability of the operator of the vehicle is in doubt the officer should take steps to insure the person safely gets to their destination. These steps may include but are not limited to; locating another driver, contacting a cab, or contacting the consulate of the person involved or the United States Department of State for further assistance.

Foreign nationals are subject to the laws of the State of Iowa, however there may be consular notification requirements. If a foreign national is stopped for a traffic violation, or is involved in a motor vehicle crash which requires no special investigation, there are no notification requirements. If a foreign national is physically arrested or detained for a substantial period of time there may be notification requirements. In these circumstances, refer to the *Consular Notification and Access* publication which is available on-line at the U.S. State Department's web site.