

St. Joseph, Missouri Police Department



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SUBJECT: Arrest/Notice to Appear		
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I. POLICY:

Sworn St. Joseph Police Department Members may exercise their legally mandated authority and powers of arrest anywhere within the City limits of St. Joseph, as well as outside the City when on property owned, leased or under the control of the City, pursuant to RSMo. 544.216. They may also exercise their authority and powers in any other city when in fresh pursuit of a person for the commission of a felony, or in any area outside their jurisdiction when responding to a request for assistance made by officials having proper jurisdictional authority, pursuant to RSMo. 544.157.

Based upon probable cause, a St. Joseph Police Officer may affect a custodial arrest or, for any act punishable as a misdemeanor, issue a Notice to Appear in lieu of custodial arrest. Sworn members of the Department will adhere to the Missouri Statutes and the St. Joseph Police Department procedures governing custodial arrests and/or the issuance of Notices to Appear in lieu of custodial arrest.

II. DEFINITIONS:

- A. Arrest:** The taking of a person into custody in order that the person may be forthcoming to answer for the commission of a crime. The giving of notice to appear is not an arrest. RSMo. 544.180.
- B. Custodial Arrest:** An arrest made by an actual restraint of the person or by the person's submission to custody. RSMo. 544.180.
- C. Notice to Appear:** A written request issued by a law enforcement officer, notifying a person that he/she appear before a designated court at a stated time and place. Missouri Supreme Court Rule 37.15.
- D. Felony:** A crime in which a person, if convicted, could be sentenced to imprisonment for a term in excess of one year. RSMo. 556.016.
- E. Misdemeanor:** A crime in which a person, if convicted, could be sentenced to imprisonment for a term of a maximum of one year or less. RSMo. 556.016.

III. PROCEDURE:

- A.** Sworn St. Joseph Police Department members shall adhere to the specified procedures for affecting an arrest with or without a warrant. A member may arrest a person under any of the following circumstances:
 - 1.** The Police Officer has a warrant commanding that the person be arrested:
 - a.** An arrest warrant may only be executed by sworn St. Joseph Police Department Members. (RSMo. 544.157, RSMo. 479.100).
 - b.** Before taking the person named on a warrant into custody, the member will ensure, by checking with the Communications Center, that the warrant is still valid.
 - 2.** The member has probable cause to believe that a warrant for the person's arrest has been issued in this state.
 - a.** When a member has probable cause to believe that a warrant for the person's arrest has been issued in another state for the commission of a felony, the member shall cause the Communications Dispatcher to verify the warrant, and determine if extradition will be completed, pursuant to RSMO Chapter 548.
 - 3.** The member has probable cause to believe that the person is committing or has committed:
 - a.** A felony; (RSMo. 544.216 RSMo. 544.157) or
 - b.** A misdemeanor; (RSMo. 544.216 544.157).
- B.** Any Department member referring an accused to State or Municipal Court for a traffic violation shall issue a citation (Notice to Appear) to the accused, even if the accused is in the care and custody of the Police Department. It shall be at the discretion of the member to issue a written Notice to Appear/Citation, or to issue a written warning or give a verbal warning for traffic violations, in lieu of a physical arrest.
- C.** If not prohibited by legal mandate or Section D and/or E of this General Order, any member referring an accused to the Municipal Court for an infraction, misdemeanor, or traffic violation shall issue the appropriate Notice to Appear and may release the individual.
- D.** A custodial arrest shall be made and the accused booked into the Holding Facility in all adult felony cases and in all adult misdemeanor cases when:
 - 1.** The accused cannot or will not identify himself/herself;
 - 2.** The accused is not a resident of the State of Missouri;
 - 3.** The accused refuses to give a written promise to appear in court when served with a Notice to Appear (Exception: Traffic only);
 - 4.** Release of the accused would constitute a risk of harm to himself/herself or others, or would constitute a risk of damage to the property of others; or
 - 5.** Release of the accused would not quell the problem at hand, or may cause evidence of the crime to be irretrievably lost.
- E.** Adults committing the following offenses shall be taken into custody and booked into the Holding Facility, unless otherwise directed by a Supervisor:
 - 1.** Resisting arrest;
 - 2.** Interfering with a Police Officer (physically);

3. Assault on a Police Officer;
 4. Sex crimes;
 5. Domestic-Violence offense (in accordance with State law);
 6. Assault committed with a deadly weapon;
 7. Possession of a deadly weapon;
 8. Arson;
 9. Auto theft;
 10. Burglary;
 11. Larceny when the suspect shows a previous arrest for the offense;
 12. Felony drug violations;
 13. A Homicide.
- F. Juveniles who are detained shall be transported to the Buchanan County Juvenile Detention Facility. A probable cause statement shall be completed prior to the member leaving Juvenile Detention, and/or the Law Enforcement Center, unless extenuating circumstances exist (such as another member needing immediate backup, etc.). All applicable reports shall be completed and delivered to Juvenile Detention prior to the member's end of watch.
- G. Alternatives to Custodial Arrest/Use of Discretion
1. Alternatives to custodial arrest, such as officer mediation or referral to an appropriate Social Service Agency, should be considered whenever the employment of an alternative would facilitate a Departmental objective or community need, and would not conflict with the law.
 2. An alternative to custodial arrest may be used in such cases, including, but not limited to:
 - a. Juvenile offenses of a minor nature (lecture and release, with an information report forwarded to the juvenile offense);
 - b. **Verbal** disputes between family members, neighbors/friends, boyfriends/girlfriends, and businesses/customers;
 - c. Misdemeanor cases (**EXCEPT THOSE INVOLVING DOMESTIC VIOLENCE**), where the victim does not desire prosecution; and
 - d. Offenses of a minor nature (i.e., disorderly conduct calls and calls involving intoxicated or emotionally disturbed subjects, where viable alternatives to arrest exist).
 3. **A valid arrest warrant eliminates the discretion to employ alternatives to ar- rest: the person must be arrested.**
- H. **Method of Arrest:** (RSMo 544.180)
1. An arrest is made by an actual restraint of the person arrested or by the person's submission to custody.
 2. Only the amount of physical force that is necessary shall be used to affect the arrest. (See GO0019 "Use of Force")
 3. An arrest may be made on any day and at any time. However, Municipal and/or Non-Violent Misdemeanor warrant arrests will not be affected **without just cause** between the hours of 2300 hours and 0600 hours at the subject's place of residence. This does not include those incidents where the member was already at the residence on legitimate business (i.e., answering calls for

service, disturbances, etc.) upon notification that a warrant was active on the subject.

I. Discontinuation of Arrest Custody:

1. Following arrest, but before commitment to Holding Facility Custody:

a. If probable cause to arrest evaporates (because of new information or realization of an error), the member shall notify a Shift Supervisor, and shall release the arrestee as quickly as possible in a reasonably safe place (of the arrestee's choosing, if possible). In such cases, the member shall:

- 1) Fully document in his/her report the reason for the arrest;
- 2) Fully document the release from custody and the reason for it; and
- 3) Forward the report(s) to the Chief of Police through the appropriate chain of command.

2. Following arrest and after commitment to Holding Facility Custody:

a. If probable cause evaporates because of new information or realization of an error, the member shall immediately consult with his/her Shift Supervisor in order to determine the procedure for causing the prompt release of the arrestee from custody. The same procedure for documentation as specified in Section "I.1.a" above shall be followed.

J. Stopping a Suspect:

1. Without making an arrest, a member may stop any person in a public place whom he/she reasonably suspects is committing, has committed, or is about to commit a crime, and may demand of him/her their name, address, date of birth, and an explanation of his/her actions. (Terry v. Ohio 392 U.S. 1, (1968); See also GO0011 "Stop and Frisk Searches")
2. When a member has stopped a person for questioning pursuant to this section and reasonably suspects that his/her personal safety requires it, the member may search (frisk) such person for firearms or other dangerous weapons. If the member finds firearms, weapons, or other items, the possession of which may be a crime or evidence of a crime, the member may take and keep same until the completion of the questioning, at which time he/she shall either return the item, if lawfully possessed, or arrest such person. (Terry v. Ohio 392 U.S. 1, (1968); See also GO0011 "Stop and Frisk Searches")

K. Holds on Arrest without Warrants: (RSMO 544.170)

1. All persons arrested and confined at the St. Joseph Police Department Holding Facility, without a warrant or other process (i.e., traffic or civil summons) for any alleged breach of the peace or other criminal offense, or on suspicion thereof, shall be discharged from said custody in accordance with RSMO 544.170
2. When an individual is detained on a hold in accordance with RSMO 544.170, the arresting member(s) shall ensure that notification (verbally or written) of such an arrest is forwarded to the Detective Division. All reports pertaining to the offense shall be completed prior to the end of the member's (s') shift. The member(s) will ensure that the appropriate copies of the completed report(s) are forwarded to the Detective Division.

3. The appropriate Detective shall arrange for the case to be presented to a member of the Buchanan County Prosecuting Attorney's Office for review and the issuance of warrants. If the lead investigator determines that the offense is not of an urgent nature, and that no irreparable harm could come from presenting the case at a later time, he/she may instruct that the individual be released "Pending Further Investigation".
- L. Mass Arrests: The following procedures are to be followed by members when applicable. It is understood that in those incidents which result in mutual aid response from other agencies, members will need to work in cooperation with other officers whose policies may differ from those of this Department.**
1. A mass arrest situation exists when the number of persons to be arrested in a single incident exceeds the Department's ability to perform normal arrest, booking, and reporting procedures. Although large disturbances (i.e. bar fights, large street crowds disturbing, etc.) can adversely affect a particular shift's capabilities, such incidents do not necessarily constitute a mass arrest situation that requires the procedures listed below. An individual Incident Commander must assess each particular situation as it arises.
 - a. All members who are off-duty at the time of such a mass arrest situation **shall** report for duty when requested. The Chief of Police shall approve such a "call in".
 - b. The Commanding Officer at the time of the incident must approve, coordinate, and direct all incidents involving mass arrests. He/she shall maintain command of the situation unless relieved by proper authority.
 - c. **When appropriate**, sufficient personnel shall be assembled before any enforcement action is taken. In the event additional assistance is necessary **immediately**, the Incident Commander may request mutual aid assistance by notification through the Communications Center to the assisting agencies' field personnel (unless direct radio contact has already been made with their officer(s) currently in the field). Otherwise, the highest ranking on-duty officer of the assisting agencies will be contacted and informed of the situation by the Communications Center. The Buchanan County Sheriff's Office and the Missouri Highway Patrol will be contacted first.
 - d. The Communications Center will clear a radio frequency for all enforcement action relative to the incident, and an appropriate number of dispatchers will be assigned to handle the situation.
 - e. After evaluating the nature/type of mass arrest, the City Prosecutor and/or the County Prosecuting Attorney may be notified.
 - f. If possible, all Department vehicles shall be parked and secured at one location with at least one member remaining with the vehicles.
 - g. When appropriate, the Incident Commander shall assign officers to set up either a "Field Processing Center" or a processing center at the L.E.C.
 - h. Members shall not act alone unless failure to act could result in a loss of life or great bodily harm.

- i. Arrestees shall be removed from the arrest scene as soon as possible and taken to the appropriate processing center. Arresting members shall return to crowd control duties as soon as possible.
- j. Arrestees shall be transported directly to the Holding Facility or cited and released as soon as possible after processing. The standard procedure(s) for transporting prisoners shall also apply to mass arrest situations, unless extenuating circumstances exist (See GO0009 “Prisoner Transport”).
- k. In the event that buses or other mass transit vehicles are used, care shall be taken to ensure that all prisoners are secured with handcuffs or flex cuffs and a sufficient number of members are present to maintain security.

2. Field/Station Processing-Mass Arrests:

- a. Members will be assigned as needed to maintain order and security in the processing center.
- b. To expedite matters, the arresting member will assist booking personnel by listing the charges, location of arrest, and the arresting member(s) name on a Department information report before returning to the field.
- c. Members assigned to the processing center shall complete the standard booking report, take mug photos and fingerprints of the arrested subject(s), and check for wants/warrants.
- d. The Incident Commander or his/her designee shall take steps to ensure adequate personnel are assigned to the Holding Facility to act as booking personnel to complete the booking process as stated in 2c, directly above.
- e. Any evidence seized as a result of a mass arrest incident shall be turned over by the arresting member(s) to a designated Evidence Officer at the processing center.
- f. The Evidence Officer will complete a Department Evidence Report, noting the time, date, and the member from whom the evidence was received. The evidence will be placed in a secure location by the Evidence Officer and transported to the Department Evidence Room at the appropriate time.
- g. Prisoners will be processed at the Field Processing Center by member(s) who will have the necessary items to provide positive field identification, photographs, fingerprints, etc.
- h. Those member(s) assigned to processing persons arrested will obtain a case number and ensure that the case number is on all reports.
- i. One photograph shall be taken of the prisoner. The arresting officer’s name and the case number shall be documented with the photograph as well as the arrested person’s name and date of birth. The photograph shall be forwarded to the Records Division.
- j. Upon completion of processing, the prisoner shall be taken to a place of release or confinement.

- k. Juvenile offenders shall be separately confined, transported to the Juvenile Detention Center, and processed through juvenile arrest procedures:
 - 1) In the event that numerous juveniles were initially estimated to be involved, and a Juvenile Officer is already in the field, juvenile arrestees may be released to their parents pursuant to field processing through Juvenile Office procedures.
 - l. As soon as the approximate number of persons to be incarcerated is known, the Law Enforcement Center Booking Personnel will be notified by the Incident Commander or his/her designee:
 - 1) If there is not enough space available for immediate use at the Buchanan County Law Enforcement Center, arrangements for special bonding procedures and/or releases pending further investigation shall be made through the appropriate Prosecuting Attorney and/or Judicial Authority.
 - 2) Assistance from the Buchanan County Sheriff may be sought to otherwise find additional suitable Detention Facilities to house arrestees.
 - m. Prisoners shall **not** be allowed visitation from defense counsel until they have been transported to the Holding Facility. Once the booking process is completed, the suspect shall be allowed private visitation with his/her legal counsel. There should be no intrusion on this meeting by means of video or audio monitoring unless so requested by the defense counsel. The attorney and his/her client should be placed in a secure area for this meeting (See also SO0104 "City Detention Management and Operations").
 - n. Food, water, sanitation/personal hygiene, and medical needs of all prisoners shall be met at the Holding Facility (See also SO0104 "City Detention Management and Operations").
3. Media Relations:
- a. The Department Public Information Officer (PIO), the Chief of Police, or his/her designee shall be responsible for media contacts during a mass arrest situation. In the event that the PIO or Chief of Police is not available, the designated Shift Supervisor shall be the media contact person.
 - b. Media contact shall be at a designated location established by the PIO or his/her designee. In the event of a major field operation, a forward media observation area may be established.
 - c. A news media release shall be given after approval by the Chief of Police or his/her designee, at the conclusion of the event (See also GO0002 "Public Information").

Chris Connally, Chief of Police

Date