



LAW ENFORCEMENT OPERATIONS POLICY AND PROCEDURES

Procedure 7.3.1p7 Chapter 7: Arrests

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I. PURPOSE

This policy establishes guidelines for arresting criminal suspects based on probable cause as required by constitutional and State guidelines.

II. DEFINITIONS

Arrest: The restraint of a person's liberty to come or go as he pleases, no matter how slight. An individual has been arrested when he is not free to go, regardless of whether formal words of arrest are used.

Arrest Warrant: A judicial command to arrest a particular individual and to bring the arrestee promptly before the magistrate issuing the warrant or another judicial officer.

Immediate Knowledge: When, by seeing, hearing, or using any of the other senses or reliable evidence and information, the officer has personal knowledge of the commission of a crime.

Investigative Detention: An investigative detention occurs when a sworn employee, based on facts or circumstances, ascertains that criminal activity might be afoot and detains a suspect.

Probable Cause: A set of facts and circumstances within a sworn law enforcement officer's knowledge that would lead a reasonable person to believe that an offense has been committed or is being committed and/or that a particular individual has committed or is committing the offense.

III. PROCEDURES

A. Arrest without a Warrant (GLECP 1.9)

1. A law enforcement officer may arrest for a crime without a warrant if:

a. the offense is committed in his presence or within his immediate knowledge.

b. the offender is endeavoring to escape.

c. the officer has probable cause to believe that an act of family violence, as defined in O.C.G.A. 19-13-1, has been committed.

d. the officer has probable cause to believe that a violation of a criminal family violence order, as defined in O.C.G.A. 16-5-95, has been committed.

e., the officer has probable cause to believe that an offense involving physical abuse has been committed against a vulnerable adult as defined in O.C.G.A. 17-4-20.

f. for other causes, if there is likely to be the failure of justice for want of a judicial officer to issue a warrant. (O.C.G.A. 17-4-20).

2. An officer's power to arrest without a warrant does not extend to offenses long past. A warrant must be obtained for past offenses.

3. Generally, an officer has no official power to arrest without a warrant beyond the boundaries of his jurisdiction.

4. When a law enforcement officer arrests an individual without a warrant, a warrant must be obtained for the applicable charges in accordance with the requirements of the court.

B. Arrest with a Warrant (GLECP 1.9)

The Fourth Amendment to the United States Constitution protects citizens against unreasonable searches and seizures and states, "NO WARRANTS shall be issued but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

1. Only sworn law enforcement officers shall execute arrest warrants. **(GLECP 1.8)**

2. Jurisdiction: a warrant may be issued in any county in Georgia. Once issued, a warrant may be carried from one county to another, and it may be served in any county/city of the state regardless of where it was issued.

3. Sworn employees shall ensure that a warrant is valid. No sworn employee shall arrest any person under the color of a warrant unless he reasonably believes a valid warrant exists and that the person described in the warrant is before him.

4. Persons arrested under a warrant shall be brought before a judicial officer authorized to examine, commit, or receive bail and, in any event, to present the person arrested before a committing judicial officer within seventy-two (72) hours after arrest. (OCGA 17-4-26) **(GLECP 5.2b)**

C. ARREST PROCEDURE

1. When a lawful arrest cannot be made except with a warrant, the arresting officer should have the warrant in their physical possession at the time of the arrest or so near at hand that it can be exhibited upon demand.

2. An officer making a lawful arrest has the right to use whatever force is reasonably necessary

to accomplish the arrest, but no more than is necessary to take the suspect into custody (see Chapter 13 - Use of Force).

3. A person about to be arrested has the right to know that he is being taken into custody by an officer with lawful authority. One or more of the following factors may provide such notice:

- a. The suspect knows the person making an arrest is an officer.
- b. The suspect sees the officer's uniform or badge.
- c. The suspect is apprehended while committing a crime.
- d. The suspect is pursued from the scene of a crime.
- e. The officer tells the suspect that he is making an arrest and why he is being arrested.

4. Any person taken into custody suspected of committing a criminal act, who may be dangerous to themselves, or a sworn employee shall be handcuffed without delay before being transported and in a manner prescribed through agency or State mandated training. The method is as follows: **(GLECP 6.10)**

- a. The hands shall be handcuffed to the suspect's rear with the palms facing outward. However, when handcuffing to the rear is impractical, i.e., late-term pregnancy, or severe physical disabilities, handcuffing to the front may be utilized.
- b. Once the handcuffs are placed on the suspect, they will be checked by inserting the tip of the small finger between the arrestee's wrist and the inner ring of the handcuff to ensure proper fit and to check for tightness of the handcuffs.
- c. After the officer checks for proper fit and tightness, they double lock the handcuffs.
- d. When handcuffs prove insufficient in restraining an individual (e.g., kicking, attempting to flee), officers may employ additional department-approved restraining devices.

5. Restrictions – An officer shall not: **(GLECP 6.10)**

- a. Handcuff a prisoner to any object not intended for that purpose.
- b. Be handcuffed to the prisoner; nor
- c. Remove handcuffs until the prisoner is safely inside the jail or law enforcement agency.
- d. Officers are authorized to use only agency-approved restraining devices.

6. Special Enforcement Procedures - See Chapter 21, Patrol Function, of this manual for special enforcement procedures regarding traffic violations regarding:

- a. Non-residents
- b. Juveniles

c. Legislators

d. Military Personnel

D. Search Incident to Arrest

1. All prisoners will be searched by the arresting officer and by each officer taking custody of the prisoner during transport and confinement. **(GLECP 6.7)** All vehicles used for prisoner transport will be searched for contraband after the completion of the transport. **(GLECP 6.8)**

2. A thorough search for weapons and contraband should be done once the prisoner has been handcuffed.

a. In the case of female arrestees, male officers should make a reasonable effort to either have a female officer assist in the search or have another officer stand by as a witness.

b. In the case of male arrestees, female officers should make a reasonable effort to either have a male officer assist in the search or have another officer stand by as a witness.

3. The search should also include the area within the suspect's immediate reach during the arrest. If the arresting and transporting officers differ, the transporting officer shall re-search the detainee before any transport. **(GLECP 6.7)**

4. Body Cavity/Strip Searches – (GLECP 5.9)

Intrusions on the body's surface (swabbing, hair samples, retrieval of evidence from the mouth, etc.) are governed by the Fourth Amendment. Such searches are permissible as long as they are conducted in a reasonable manner and are justified under the circumstances (e.g., probable cause to search).

a. A body cavity search is any oral, vaginal, anal cavity inspection, whether performed visually or manually or using any instrument, apparatus, object, or otherwise.

b. A strip search is a search in which the person must remove all their clothing. Permissible inspection includes examining the patient's clothing and body and visualizing their cavities.

c. Strip/body cavity searches of an individual must meet two thresholds:

i. The person must first be arrested based on probable cause.

ii. The officer must reasonably suspect that the arrestee is secreting contraband or weapons on their person.

d. These searches shall be conducted at a detention facility by trained Personnel unless exigent circumstances make the search necessary to protect the officer or others from serious bodily harm or death. The officer shall obtain supervisory authorization before this search unless no supervisor is available. In all cases, the officer must seek a private area to conduct the search, which is out of view of the public and other persons.

- e. Cross-gender searches are prohibited unless exigent circumstances justify such a search.

Under no circumstances should an officer delay a weapons search and jeopardize their safety to comply with sections 1 or 2 above.

E. Transporting Prisoners

1. The safety and security of persons in police custody is a constant requirement with significant responsibilities attached. Using an officer's discretion, the thoughtful consideration of what is suitable and appropriate, in accordance with agency policy, is an essential part of effective law enforcement. When complying with these directives, officers should consider many factors. These factors include but are not limited to the following:

- a. The physical condition of the person in custody;
- b. The seriousness of the offense for which the person is in custody;
- c. The age and sex of the person in custody;
- d. The disposition toward violence displayed by the person in custody;
- e. The urgency of the situation or the presence of a crowd;
- f. The number of persons in custody.

2. At the beginning of each tour of duty, every officer who may become responsible for transporting any prisoner must inspect all approved equipment and vehicles for safety and function.

3. Each officer will be responsible for having all typically issued equipment on his person and having that equipment in good operational order.

4. Vehicles used for transporting detainees shall be examined at the beginning of each shift and searched again after each transport of a detainee. **(GLECP 6.8)**

5. All prisoners will be handcuffed and thoroughly searched by the transporting officer before being placed in the transport vehicle. **(GLECP 6.7, 6.10)**

6. Vehicles used primarily for patrol and transporting detainees must have the driver separated from the detainee by a safety barrier. **(GLECP 6.12)**

7. As far as circumstance permits, the transport vehicle operator will be responsible for having each passenger use the vehicle safety restraints (seatbelts).

8. Normally, a maximum of two (2) nonviolent prisoners will be transported at any time, and these prisoners will be secured with restraints. Zip tie cuffs may be used in place of traditional handcuffs if needed. **(GLECP Std. 6.10)**

9. When walking a prisoner from one location to another, the officer will walk behind the prisoner and off to the side so that the officer's firearm will be on the side, away from the prisoner. The

officer will be close enough to the prisoner to maintain control and prevent attack or escape.

10. The transporting officer will notify dispatch, a supervisor, or another designee, as directed by the Chief of Police, at the beginning and end of the transport regarding the number of prisoners and destination. Starting and ending mileage and times will be documented.

11. The officer will take the safest, most direct route to the destination and be exceptionally watchful of the prisoner at all stops that traffic signals or conditions require.

12. No side trips or unauthorized stops will be permitted. Transports may only be interrupted for exigent circumstances. **(GLECP Std. 6.9)**

13. Officers and prisoners will only be permitted in a transport vehicle. Should any non-prisoner be approved, by a supervisor, to be in the transport vehicle, all baggage, purses, and packages will be removed from that person, and that person will be searched.

14. Agency personnel shall keep any prisoner(s) located where they can be visually observed.

15. Upon arrival at the destination, the transporting officer will:

- a. Make notification/documentation as described in section E. 10 above.
- b. Turn off the transport vehicle, remove the prisoner, and lock the transport vehicle;
- c. Before entering any area where other prisoners are present, the transporting officer will secure his weapon in a provided locker or lock his weapon in the trunk of his patrol car.
- d. Leave the prisoner handcuffed until inside a secured area;
- e. Search the prisoner again;
- f. Deliver the necessary documents that accompany a prisoner and await acknowledgment and signature from booking or intake Personnel that the prisoner has been accepted for holding or processing;
- g. Retrieve his weapon and search the transport vehicle before returning to service.

F. Emergency Situations During Transport

1. No provision of this policy will prevent an officer from taking appropriate action in a life-threatening emergency that may occur during any transport.

2. All due care should be taken to safeguard the well-being of anyone being transported and to prevent the escape of those in custody before leaving the transport vehicle unattended. The precautions to be considered include, but are not limited to, the following:

- a. Lock the transport vehicle;
- b. Park the transport vehicle in a safe location, preferably off the roadway;

- c. Use appropriate emergency lighting to avoid exposing the transport vehicle to traffic hazards and to facilitate location by other emergency vehicles;
- d. Remove the keys from the transport vehicle once safely parked out of traffic;
- e. Illuminate the interior of the transport vehicle to facilitate viewing of the prisoner;
- f. Summon assistance immediately;
- g. Return to the transport vehicle as soon as assistance arrives; and
- h. Resume transport as soon as possible.

G. Transport of Sick, Injured, or Disabled Detainees (GLECP Std. 6.10, 6.11)

1. When transporting physically impaired individuals who are in custody, extra care must be exercised by the transporting officer. Therefore, exceptions to standard transport policy may be made.

2. Physically impaired detainees are those that have an apparent physical disability or impairment. The transporting officer must treat these individuals with appropriate restraint of action while providing security and safe transport.

3. The transporting officer will determine if a physically impaired detainee who uses supporting devices (crutches, canes, walkers, etc.) is of such a disposition to use the device as a weapon. Normally, the physically impaired detainee will not be restrained and will be allowed to use supporting devices to move to and from the transporting vehicle. Supporting devices should be removed from the detainee during transport and placed in a secure area. Should the detainee require medication to be transported with them (i.e., insulin, etc.) then the medication may be transported in a secure location in the vehicle, such as the front seat or the trunk.

4. If a physically impaired detainee is violent, supporting devices will be removed from that individual. For example, suppose the detainee is only ambulatory with the devices. In that case, that individual will be assisted to and from the transport vehicle by the transporting officer, who will ensure that the detainee will not have the opportunity to gain access to the officer's weapon and will not escape.

5. Detainees who are sick or injured and require medical attention must be cleared for transport by a medical professional, such as EMS, before being transported. They may need to be transported by EMS.

Should a detainee become sick or injured after transport has been initiated, the detainee will be transported directly to the closest medical facility. The transporting officer will attempt to contact a local 911 center to request assistance if needed.

6. Mentally diminished detainees may require extra consideration when being transported. Due to limited resources and manpower, the agency shall call for a county sheriff's department of an ambulance, if needed, to transport detainees with diminished mental capacity.

H. ESCAPE OF A PRISONER DURING TRANSPORT

It is the responsibility of each officer who takes custody of any prisoner to take all prudent and reasonable actions to prevent the prisoner's escape. In the event of an escape of a prisoner,

while being transported, the transporting officer shall:

1. Immediately notify the dispatch function.
2. If the escape occurred outside of the jurisdiction of the TCSG agency, the transporting officer shall notify the agency in whose jurisdiction the escape occurred. This notification shall be done promptly to initiate a search for the escapee.
3. Provide the dispatch function and any agencies helping with the search with the following information:
 - a. Escapee's name and charges
 - b. Physical description (including tattoos, scars, marks, etc.)
 - c. Clothing description
 - d. Direction of travel when last seen
 - e. Type of weapon involved if any
 - f. Any other pertinent information

I. MIRANDA WARNINGS AND WAIVER (GLECP Std. 5.2c)

In Georgia, law enforcement officers are required to advise a suspect of their rights, commonly known as Miranda rights, under certain conditions. It's important to note that these rights are in place to protect the constitutional rights of individuals against self-incrimination and to ensure the right to legal counsel.

A Miranda warning is required only for custodial interrogations. It is required when someone is deprived of their freedom of action in any significant way – i.e., the functional equivalent of being in custody. Courts look to all the circumstances in determining whether a reasonable person in the place of the detainee would believe that they were in custody.

1. Warning – The Miranda warning will be given to all in-custody suspects before any questioning, except in those narrow circumstances where Federal courts have determined that the warnings are not required.
2. Waiver – A waiver of the Fifth Amendment right to silence will be secured appropriately before in-custody questioning of any suspect for whom the Miranda Warning is required. Before a statement can be admitted into evidence, the State must prove that the suspect fully understood the warning and freely decided to answer questions. When possible, a signed waiver shall be obtained. In addition, the suspect must clearly state his request for an attorney.
3. The attached appendix containing the Miranda Warning and Waiver shall be used and, when possible, signed by the individual making the statement.
 - a. Before a statement can be admitted into evidence, the State must prove that the suspect fully understood the warning and freely decided to answer questions. A suspect who remains silent after receiving warnings has not agreed to be questioned.

4. Request for a Lawyer by an Accused

a. If, at any point, the accused requests, suggests, or implies that he may need to speak with an attorney, all questioning must cease. Questioning by law enforcement officers related to the offense(s) may only be resumed if the accused initiates the questioning by requesting to speak with the officer. After invoking the right to counsel, the officer must fully document any offer by the accused to speak with officers. Only routine administrative questions unrelated to the offense(s) may be asked after the accused has invoked their right to counsel.

b. The officer may ask the suspect only questions that will determine whether or not the accused is invoking the right to counsel. Only if the accused states clearly and unequivocally that they do not want a lawyer may questioning continue. Documentation of this is vital. The following are examples of equivocal requests for a lawyer:

Accused: "I guess I'm going to see a lawyer sometime."

Accused: "When do you think I'll get to see a lawyer?"

Accused: "My wife informed me to go and get a lawyer."

Officer Response: "Do you want a lawyer now?"

Only if the accused's answer indicates that they do not want a lawyer will questioning concerning the crime continue.

c. If during the booking process, the accused has completed an Application for Appointment of Counsel and Certificate of Financial Resources form (as required by USCR 29.3) and marks the document to request a court-appointed lawyer, the accused has invoked the right to counsel, and questioning must cease.

5. Identification of Investigator - In addition to being given the Miranda Warnings, the accused shall be advised of the names and official identities of the interrogating investigator(s) and the nature of the inquiry.

6. Interpreters - When there is doubt about a person's ability to use and understand the English language, and an officer needs to be qualified in the principal language of the person, the officer will contact the supervisor for assistance. The supervisor will be responsible for obtaining a qualified interpreter. Any confession made without an interpreter may render the statement inadmissible in court. This policy shall also apply to those persons who are hearing impaired.

7. Documentation of Statement by Accused

1. Any formal statement the accused makes should be recorded on audio or video.

2. If recording the accused's statement is impossible, the officer must fully document the statement's content.

3. The accused should be asked to sign any written statement containing a confession or admission of guilt whenever possible.

4. Georgia law requires that the State furnish the defendant with a copy of any statement made while in custody. Failure to provide the defendant or their attorney with a copy of

the statement may render it inadmissible.

8. Questioning About Similar Crimes - When interviewing subjects and suspects, consideration should be given to including questions about any knowledge of unresolved cases of a similar type.

9. Implied Consent- The Georgia Implied Consent Law is a legal provision that requires drivers within the state to submit state-administered chemical tests to determine if they are under the influence of alcohol or drugs. Once a person is arrested for DUI, the officer is required to read or recite the Implied Consent Notice. This notice informs the suspect of the following:

Requirement to Submit to Testing: The suspect must submit a state-administered chemical tests of their blood, breath, urine, or other bodily substances to determine the presence of alcohol or drugs.

Penalties for Refusal: If the suspect refuses to submit to testing, there are penalties, including the suspension of driving privileges.

Right to Independent Test: The suspect has the right to request an independent test after submitting to the state-administered test.

The reading of the Implied Consent Notice is crucial because to ensures that suspects are aware of their rights and the consequences of refusing the tests.

MIRANDA WARNING

Officer Instructions:

Read each statement to the detainee and have them indicate that they understand each one by placing their initials after each statement. Then have the detainee sign and date the waiver.

1. You have the right to remain silent and not make any statements or incriminate yourself in any manner whatsoever. _____
2. Anything you say can and will be used against you in a court or courts of law for the offense or offenses concerning which this statement is herein made. _____
3. You have the right to talk to a lawyer and have him present while being questioned. _____
4. If you cannot hire a lawyer, you can request and receive an appointment by the proper authority, without cost or charge to you, to be present and advise you before and during this statement. _____
5. You can decide at any time to exercise these rights and not answer any questions or make any statements. _____

MIRANDA WAIVER OF RIGHTS

I understand each of the above rights that have been explained to me.

Having these rights in mind, I wish to waive these rights and talk voluntarily of my own free will and accord.

_____ (Detainee Signature)

_____ (Date)

SPECIAL INSTRUCTIONS:

GEORGIA LAW ENFORCEMENT CERTIFICATION PROGRAM (GLECP) STANDARDS

INCLUDED: 1.8, 1.9, 5.2b and c, 5.9, 6.7, 6.8, 6.9, 6.10, 6.11, and 6.12.

This policy is for the Law Enforcement Agencies of the Technical College System of Georgia use only and does not apply to any criminal or civil proceeding. The policy shall not be construed as creating a higher standard of safety or care in an evidentiary sense concerning third-party claims. Violations of this policy will form the basis for departmental administrative sanctions only. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.