



## GENERAL ORDER

### LIMITS OF AUTHORITY/ARREST

Implementation Date: February 15, 1988

Revokes: NONE

### GENERAL ORDER - 10

#### 10.1 INTRODUCTION

The City of Coral Springs is a chartered municipality. In accordance with Article VIII Section 2(b) of the Constitution of the State of Florida and 166.021 FSS, the City shall have governmental, corporate, and proprietary powers. Through these powers, and 943.10(1), 790.051, 790.052(1) FSS, as may be amended from time to time, the Police Department, as a municipal service, has the legal right and is acting within its authority enforcing the laws of the State of Florida and the ordinances of the City of Coral Springs.

The enforcement authority of the police is limited by the appropriate guidelines set forth in the Constitution of the United States and the State of Florida, Florida Statutes, as amended, and the policies and procedures of the Coral Springs Police Department.

#### 10.2 DEFINITIONS

Arrest – Taking, under real or assumed authority, custody of another for the purpose of holding or detaining them to answer a criminal charge or civil demand.

Arrest Warrant – A written order which is made on behalf of the state and is based upon a complaint issued pursuant to statute and/or court rule and which commands a law enforcement officer to arrest a person and bring the person before a court, to answer, or to be examined, concerning an offense which the person is charged with having committed.

Authority – The right and power to command, to implement and enforce laws, and to exact obedience.

Booking – For this section, shall mean the processing, fingerprinting, and photographing of a prisoner.

Citation – A written order issued by a sworn officer or a civilian Traffic Accident Investigator, ordering a defendant to appear before a magistrate or judge at a later date, and which details any and all violations or offenses.

Discretion – The power or right to act in accordance with what is fair and equitable under the specific circumstances guided by the spirit and principles of law.

Frisk – A limited search of a person, involving the running of hands rapidly over another person's clothing, where the primary purpose is the discovery of weapons (for the protection of the officer).

Notice to Appear – A written order issued by a law enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or government office at a specific date and time.

Probable Cause – A reasonable ground for belief in certain alleged facts. Probable cause for an arrest must be supported by specific and articulable facts that an ordinary and prudent person would conclude that a crime has occurred. It is more than reasonable suspicion but less than evidence required for conviction.

Reasonable Suspicion - Involves more than a hunch or subjective feeling. The amount of knowledge sufficient to induce an ordinary prudent and cautious person under the circumstances to believe criminal activity will or has occurred. Such a suspicion must be based on specific and articulable reasonable suspicion that a person is armed may arise from the nature of the crime being investigated, (i.e. armed robbery).

Search Warrants – A written order issued by a court with proper jurisdiction authorizing an officer or agency to search and/or seize any person, property or other contraband which constitutes evidence of a crime.

Status Offense or Non-Criminal Act – Act committed by a juvenile that would not be against the law if committed by an adult.

**Note:** A juvenile offender arrested for a status offense may not be detained in a secure manner at any time in an adult jail. A juvenile placed in a secure police vehicle for transportation is not considered to be in a secure area. They may be processed through a secure booking area where that area is all that is available, continuous visual supervision is provided, and they remain in the booking area for only the period necessary to be photographed and fingerprinted.

Stop – A temporary restraining of a person's freedom to walk away. A stop is permissible under the Fourth Amendment when an officer has reasonable suspicion that the individual has committed, is committing, or is about to commit a crime.

Strip Search – Having an arrested person remove or arrange some or all of his or her clothing so as to permit a visual or manual inspection of the genitals, buttocks, anus, breasts and/or undergarments of such person.

## **10.3 POLICY/PROCEDURE**

### **10.3.1 Use of Discretion**

The ability and proper use of discretion is an important aspect of law enforcement. The use of discretion is governed by Department policies and procedures (i.e., response to resistance, fleeing vehicles, etc.). The use of discretion in incidents not specifically addressed in Department policies and procedures shall be guided by common sense. This use of discretion must be reasonable, justifiable, articulable and within the limits of the law.

### **10.3.2 Jurisdiction**

The Coral Springs Police Department will respond to, take primary reports on, and take official action on any call for service within the geographical and jurisdictional boundaries of the City of Coral Springs, except as follows:

- A.** On the Sawgrass Expressway, including entrance and exit ramps, the Florida Highway Patrol shall have primary reporting responsibilities for traffic accidents and lesser misdemeanors (i.e., criminal mischief).
- B.** Coral Springs Police personnel shall respond on the Expressway only to take action necessary to protect life and/or property, or at the request of the Florida Highway Patrol for assistance.
- C.** The Coral Springs Police Department will be responsible for primary reporting of felony offenses, other than traffic, on the Sawgrass Expressway.

#### **10.3.3 Elements of a Valid Arrest**

##### **A. Authority to Make Arrest:**

In order for an arrest to be valid, arresting officers must be acting within their authority.

##### **B. Intent to Arrest:**

An arrest is not valid unless the arresting officer actually has the intent to make an arrest according to the definition of "arrest." The person arrested should be informed of this intent.

##### **C. Custody or Control Exercised:**

Custody or control need not be an actual physical holding of the arrested person, provided the arresting officer is controlling the actions of the arrested person verbally or in some other manner.

##### **D. Force May Be Used:**

Only that force necessary to effect the arrest may be used. That may be a verbal command, or extreme physical force. Deadly force shall ONLY be used as set forth in Department rules, regulations, orders or procedures.

##### **E. Submission:**

There must be a submission to the arrest by the arrested person. The arrested person must yield to the authority of the arresting officer. Custody or control of the arrested person shall be gained by voluntary or forced submission.

##### **F. Search Incident to Arrest:**

Once a prisoner is secured and it is safe to do so, a prisoner search will be conducted and all contraband and/or property found will be removed. The officer conducting the prisoner search should utilize evidence bags to secure all removed items. The items may be secured in the trunk or front passenger seat during transport or turned over to the transporting officer.

#### **10.3.4 Stop and Frisk**

- A.** Although a stop is less severe and less extensive than an arrest, it is subject to Fourth Amendment requirements.

- B. In general, a stop or frisk requires only a "reasonable suspicion" on the part of the officer, while a full custodial arrest or a full search requires "probable cause."
- C. To stop an individual, the officer needs only to demonstrate a "reasonable suspicion" that the individual has committed, is committing, or is about to commit a crime. A police officer has the right to stop and frisk a person suspected of contemplating the commission of a crime. The scope of the search must be strictly tied to and justified by the circumstances, which render the initiation of the stop justified.
- D. To frisk an individual, an officer must demonstrate a "reasonable suspicion" that the person is armed and/or presently dangerous.
- E. Suspects who are armed may try to use a weapon during a frisk or may try to resist as the officer finds the weapon. To ensure officer protection, handcuffs may be used during a frisk. The handcuffs should be removed once the frisk is completed if the officer is reasonably sure the subject presents no danger to the officer and no probable cause to make an arrest exists.

#### 10.3.5 Vehicle Searches Incident to Arrest

An "automatic" search of a vehicle incident to arrest is no longer allowed; however, clear exceptions to the Fourth Amendment warrant requirement still exist. Vehicles may still be searched incident to arrest under the following appropriate circumstance:

- A. The arrestee is unsecured **and** within reaching distance of the passenger compartment at the time of the search, however for tactical reasons this should rarely, if ever, occur.
- B. The law enforcement officer reasonably believes that the vehicle contains evidence of the offense for which the suspect is being arrested.
- C. There is reasonable suspicion that an individual or suspect is dangerous and may access the vehicle to gain immediate control of weapons in the **passenger compartment**.
- D. There is probable cause to believe any area of a vehicle contains evidence of criminal activity.

**Note:** Officers may no longer search vehicles incident to all arrests. The above are unique situations for which a warrantless search is permitted. Furthermore, the ability of officers to search vehicles under other recognized exceptions such as a K-9 alert, consent, etc. are not affected. This does not apply to the inventory exception; therefore, procedures regarding inventory of a vehicle remain unchanged.

#### 10.3.6 Strip Searches and Body Cavity Searches

- A. No law enforcement officer shall order or conduct a strip/body cavity search without written authorization, via the supervisor's report, from an on-duty supervisor. The supervisor's report shall articulate the reasons for authorizing the strip/body cavity search. The officer shall detail the results of the search in their incident report.
- B. No person arrested for traffic, regulatory, or misdemeanor offense, except in a case which is violent in nature, which involves a weapon, or which involves a controlled substance, shall be strip/body cavity searched unless there is probable cause to believe that the person is

concealing a weapon, a controlled substance, or stolen property. This procedure is also applicable to juveniles if the probable cause to conduct a search exists.

- C. Each strip search shall be performed by sworn personnel of the same gender or gender identity/expression, as well as one sworn member of the same gender or gender identity/expression as the arrested person who shall assist and observe. The search shall be conducted away from any recorded areas and where the search cannot be observed by persons not physically conducting or assisting with the search. Any observer shall be of the same gender or gender identity/expression as the arrested person.
- D. The officers involved shall make sure their body worn camera is not activated. The use of the body worn camera is prohibited during a strip or body cavity search.
- E. Each body cavity search must be performed under sanitary conditions by medical personnel.
- F. Officers shall refer to 901.211 FSS for further restrictions and information concerning strip and body cavity searches.

#### **10.3.7 Warrants and Arrest without Warrants**

- A. Only sworn law enforcement personnel of the Coral Springs Police Department shall detain persons on arrest warrants.
- B. Officers may arrest without a warrant pursuant to the guidelines set forth in 901.15 FSS, or any other Florida State Statute which permit law enforcement officers to arrest for misdemeanor offenses based on probable cause.
- C. Although the Broward Sheriff's Office has the primary responsibility to serve outstanding warrants, sworn members of the Coral Springs Police Department shall arrest persons with outstanding warrants when:
  - 1. A warrant is issued pursuant to a case investigated by this Department.
  - 2. Information is received that an active felony or misdemeanor warrant exists for a person(s) residing or working in the City of Coral Springs.
  - 3. During contact with a person(s) on a traffic stop or an investigation, an active warrant is discovered through a warrant check.
  - 4. Information is received that a warrant for failure to appear exists for a person(s) residing or working in the City of Coral Springs.
- D. Officers effecting an arrest on an active warrant shall:
  - 1. Prior to taking the person into custody, confirm the warrant and, if issued from another county or state, confirm that the jurisdiction will extradite. This should not preclude the officer from taking reasonable safety measures while awaiting warrant confirmation. Since the NCIC/FCIC and Broward County Warrant systems are reliable, the officer shall place the subject in handcuffs and place him in a caged vehicle while awaiting confirmation. The officer shall wait a reasonable amount of time for a warrant confirmation. If, after a reasonable amount of time, no confirmation of either the status of the warrant or extradition

status is received, the officer shall release the subject after completing a field interview card, which shall include business address and phone number, if applicable.

2. Inform the person of the reason for arrest and that a warrant has been issued (except when the person flees or forcibly resists before the officer has an opportunity to inform him, or when providing the information will imperil the arrest).
3. Effect the arrest using reasonable methods within the limits of the law and the policies and procedures of the Coral Springs Police Department.
4. Advise BSO, via teletype that the subject is in custody and the warrant may be canceled.

#### **E. Application for Warrants**

All applications for arrest and search warrants shall be approved by respective Component or Unit Supervisors or their designees prior to contacting the appropriate judicial personnel for issuance of the warrant.

#### **F. Miranda Warnings**

The Department makes available the Rights Waiver Form in English, Spanish, and Creole. When applicable, the Rights Waiver Form shall be initialed off by the suspect after each 'right' is read to them. In a setting where this is not practical (i.e., during a Loitering and Prowling investigation), it should be simply noted in the incident report that the suspect was read his Miranda warnings.

#### **10.3.8 Un-arrest**

If, during an investigation of a crime, newly acquired evidence shows that probable cause no longer exists for the arrest of an individual, such person shall be released using the following procedures.

- A. A supervisor shall be notified prior to releasing the arrested person.
- B. The officer handling the arrest shall fill out an incident report and complete the Release of All Claims Form.
- C. The situation shall be explained to the arrestee. The subject shall be freed immediately and requested to sign the Release of All Claims Form.
- D. The subject shall be transported to the original point of detention or other location reasonably indicated by them. In addition, the person shall be helped in any way necessary to "make them whole", (i.e., retrieving an automobile that had been towed, returning property taken from them.)

#### **10.3.9 Arrest and Booking Procedures**

It shall be the policy of this Agency to fingerprint and photograph any person(s) that are being released from the Department to include NTAs, juveniles released to parents, etc. All persons regardless of transport should be run through the Rapid ID fingerprint system.

**Note:** An officer or detective may choose to fingerprint and photograph a prisoner being transported even though it is not required for the purpose of having them immediately for an investigation.

- A. Officers processing prisoners shall ensure that fingerprints are legible and photographs are clearly and properly identified.
- B. Prior to the fingerprinting and photographing of prisoners, each prisoner must be checked in the AS400 and RMS (if not located in AS400), via the booking computer for a prior Local ID number and for correct identification of the prisoner's name.
- C. Fingerprinting Adults and Juveniles - One fingerprint card and palm print cards are required for all offenses.
- D. Photographs and fingerprints taken at the Police Department, shall follow these Digital Booking procedures:
  - 1. Data entry shall be done in the booking module. The existing Local ID number shall be entered if the subject has a previous arrest with CSPD or a new Local ID number shall be assigned if they do not have an arrest history with our agency. Adults and Juveniles have a separate numbering system. If the subject was previously arrested as a Juvenile and now an Adult, a new adult Local ID number shall be assigned. At least one charge shall be included in the entry.
  - 2. Booking photos shall be completed, ensuring that a blue booking smock is placed on the prisoner. A front view, side view and all scars, marks and tattoos shall be photographed. The officer's discretion shall determine the appropriate areas of the body where the scars, marks and tattoos shall be photographed. If the prisoner wears glasses (not sunglasses), two (2) photographs must be taken with and without the glasses (four (4) total).
  - 3. Fingerprints and palm prints shall be taken using the digital Livescan system. An electronic signature shall be obtained by the prisoner and the arresting officer. A ten print card and palm print card shall be printed.
  - 4. Verification of information shall be made with the fingerprint cards and the Probable Cause affidavit prior to submission to the Crime Scene Investigations Unit. The Probable Cause affidavit shall indicate whether the prisoner was released from CSPD or transported to either the BSO or the JAC facilities. The ten print and palm print cards shall be paper clipped to a copy of the Probable Cause Affidavit and submitted to the designated location for the CSI Unit to obtain. The CSI Unit shall be responsible for submitting the fingerprint cards to FDLE.
  - 5. Any technical problems with the Digital Booking system shall be addressed with a member of the CSI Unit. If a member is not available, a "CSI Unit Request" e-mail shall be sent, indicating the specific problem or error that occurred. If fingerprints cannot be obtained through the digital Livescan system, one set of inked ten print and palm print cards may be obtained and forwarded to the CSI Unit with a copy of the Probable Cause affidavit paper clipped.

**E. Refusal to be Fingerprinted and Photographed by Adult/Juvenile**

1. If the prisoner is able to bond out at the Police Department, they shall not be released until they are completely booked. If refusal continues, the prisoner will be transported to BSO with the additional charge of Resisting an Officer without Violence, 943.02 FSS.
2. Department members are not to use physical force to obtain fingerprints and photographs of prisoners.
3. Juveniles should not be released to parents until fingerprints and photographs have been obtained.

**F. After completing the booking procedures and placing the prisoner into a cell (with the exception of a status crime arrest), the arresting officer will:**

1. Complete the Probable Cause Affidavit or Juvenile Case Summary; complete an Incident report and any other reports required by report writing procedures. Sworn affidavits and reports are accepted by the Broward County court system and the Broward State's Attorney at preliminary court proceedings and arraignments in lieu of the officer's presence. These documents are regularly forwarded to the court by the Department.

**NOTE:** On Juvenile Probable Cause Affidavits the initial M or F will be placed next to each charge in order to signify if the charge is a misdemeanor or felony. Additionally, on all capias, warrant, or pick up order charges the officer shall list what the capias, warrant, or pick up order is for (i.e., burglary, driving with license suspended, etc.).

2. Due to a court requirement, complete the probable cause affidavit and if the incident involves child abuse, a child is a witness to domestic violence, a child is witness, or party to, the commission of any crime, it shall be noted on the probable cause affidavit and the officer will stamp all copies of the affidavit with the word "CHILD" in one inch red letters.
3. In the following MISDEMEANOR arrests, an abbreviated incident report shall be completed in addition to the Probable Cause Affidavit. All sections of the Incident report must be completed, with the exception of the narrative. Indicate in the narrative section of the incident report "See Probable Cause Affidavit." The Probable Cause Affidavit's narrative section must provide all pertinent information concerning the crime.

**Exception:** In warrant/capias and traffic (including DUI) arrest and Incident report need not be filled out.

Additional report forms shall be utilized as needed (i.e., property, vehicle, person, victim/witness statements).

**NOTE:** The victim's DOB must be written next to the victim's name on the P.C. form.

- Disorderly Conduct
- Disorderly Intoxication
- Disturbances – Noise
- Larceny – Retail Theft
- Liquor Law Violations

- Loitering and Prowling
- Trespassing
- Traffic Arrest (including DUI)
- Warrant/Capias Arrest
- Weapons Offense

Any additional information (i.e., supplement reports) shall be completed on the standard supplement report form or the appropriate form.

**NOTE:** The use of the Probable Cause Affidavit with the abbreviated Incident Report can only be used when the arrest is made at the time of the incident.

4. Complete the required information in the electronic Adult or Juvenile Arrest Log in OnBase.
5. When prisoners are transported to a BSO jail facility by a CSPD officer, the transporting officer shall take all copies of the Probable Cause Affidavit to the facility. All other transportation procedures shall be followed.
6. Two signed copies of all Juvenile Case Summaries must be completed before the paperwork is submitted: one copy to the CSI Unit and the other with the officer's paperwork to the Records Unit. If the juvenile is transported to JAC, the original Juvenile Case Summary is to remain with JAC. All other summaries are submitted with the officer's paperwork. For JCCP, please refer to General Order 11A.

#### **G. Charging Prisoners who are in BSO Custody**

When a prisoner is in the custody of the Broward Sheriff's Office and our Department has charges against the prisoner, an officer from our Department will deliver a copy of our Probable Cause Affidavit to BSO advising them of the additional charges. A copy of the Probable Cause Affidavit shall be forwarded to the CSPD Criminal Identifications where a file on the prisoner will be maintained as if he were arrested and booked at CSPD. Crime Scene Investigations will obtain a set of the prisoner's prints and photographs from BSO for the CSPD file.

### **10.3.10 Diplomatic and Consular Officials**

#### **A. General Policy**

Diplomatic and Consular Officers should be accorded their respective privileges, rights, and immunities as directed by International Law and Federal Statutes. These officials should be treated with the courtesy and respect suitable to their positions. It is also a well-established principle of International Law that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect laws and regulations.

#### **B. Consular Officers**

Consular Officers are Consuls-General, Deputy Consuls-General, Consuls and Vice Consuls. They are also official representatives of foreign governments. Consular Officers are to be treated with due respect, and all appropriate measures are to be taken to prevent any attack on their person, freedom, or dignity. They are entitled to limited immunities as described below.

**C. Immunities Accorded to Career Consular Officers**

Under prevailing International Law and agreement, a foreign career Consular Officer is not liable to arrest or detention pending trial except in the case of a serious crime (felony offense endangering the public safety) and pursuant to a decision by the competent judicial authority. His immunity from criminal prosecution is limited to acts performed in the performance of Consular functions and is subject to court determination.

**D. Identification of Accredited Consular Officers**

Career Consular Officers can be identified by credentials issued by the State Department and by other locally issued official identification papers. The State Department credential bears its seal, the name of the officer, his title and signatures of State Department officials.

**E. Honorary Consuls**

Nationals or permanent resident of the receiving state are often appointed and received as Honorary Consular Officers to perform the functions generally performed by career Consular Officers. Such officers do not receive identification cards from the State Department, though they may produce reduced size copies of the diplomatic note proving recognition by the United States Government. These individuals are not immune from arrest or detention. They are also not entitled to personal immunity from civil and criminal jurisdiction of the receiving state, except during the performance of official acts relating to their consular functions. However, steps must be provided to accord these individuals the protection required by virtue of their official position. The Consular Archives and Documents of a Consular Post, headed by an Honorary Consul, are inviolable, provided they are kept separate from other private or commercial papers and documents that relate to other activities of an Honorary Consul and of persons working with him.

**F. Families of Consular Officers**

Family members of Consular Officers do not enjoy the same privileges and immunities relating to civil and criminal jurisdiction of the receiving state as do Consular Officers. However, they should be accorded courtesy and respect (see paragraph below regarding offenses involving family members of a Consular Officers).

**G. Consular Premises**

Consular premises, used exclusively for work of the Consular Post, cannot be entered without explicit permission of the head of the Consular Post, or his designee or by the head of the diplomatic mission. This permission may be assumed in case of fire or other disaster requiring prompt protective action.

**H. Consular Archives, Documents, Records and Correspondence**

Consular Archives and Documents are inviolable at all times and wherever they may be. The official correspondence of the Consular Post, which means all correspondence relating to the Consular Post and its functions, is likewise inviolable.

**I. Methods of Handling Selected Incidents, Violations or Minor Offenses by Consular Officers:**

1. Moving Traffic Violations – When a Consular Officer is stopped for a moving traffic violation, the officer, once advised by the driver that he is a Consular Officer and that he possesses the proper credentials, should use discretion based on the nature of the violation and either release him with a warning of the danger of his actions or issue the appropriate citation.

**NOTE:** Mere issuance of a traffic citation does not constitute arrest or detention as previously referenced.

2. Driving while under the Influence- The primary consideration for this type of incident is to see that the Consular Officer is not a danger to himself or the public.

The Consular Officer may be transported home, to the police station, or another location where he can recover sufficiently to drive safely. Alternatively, an officer can contact a friend, relative, or ride service to transport the Consular Officer home.

Unless a Consular Officer is considered a serious danger to himself or others, he should not be physically restrained or subject to a sobriety test.

This is a sensitive situation. The Consular Officer should be treated with respect and courtesy. It should be made clear to him that the police officer's primary responsibility is to care for his safety and the safety of others.

#### J. Offenses Involving Family Members of a Consular Officer

Family members of a Consular Officer cannot claim immunity. However, special consideration should be given to this type of case.

1. A violation should be handled, when possible, by obtaining a formal complaint.
2. The individual should be released once positive identification is made and relationship to a Consular Official is verified.
3. If the relative is a juvenile, the subject should be released to the parent Consular Officer (as is the policy in most juvenile cases).

If any question arises concerning the authenticity of credentials, the Office of Security of the Department of State may be contacted.

#### K. Foreign Nationals

1. When a foreign national is arrested/detained, officers must immediately inform the foreign national of his right to have his government notified concerning the arrest/detainment.
2. If the foreign national asks that such notification be made, do so without delay by informing the nearest consulate or embassy.
3. In case of certain countries, such notification **MUST** be made without delay **REGARDLESS OF WHETHER** the arrestee/detainee so wishes. The notification may be made by phone, fax, or email. The Communications Center shall have phone numbers and contact information or is available online at:

<https://travel.state.gov/content/travel/en/consularnotification/ConsularNotificationandAccess.html>

These countries that require immediate notification are:

|                     |                     |
|---------------------|---------------------|
| Algeria             | Malta               |
| Antigua and Barbuda | Mauritius           |
| Armenia             | Moldova             |
| Azerbaijan          | Mongolia*           |
| Bahamas             | Nigeria             |
| Barbados            | Philippines         |
| Belarus             | Poland**            |
| Belize              | Romania             |
| Brunei              | Russia              |
| Bulgaria            | St. Kitts & Nevis   |
| China***            | St. Lucia           |
| Costa Rica          | St. Vincent         |
| Cyprus              | & Grenadines        |
| Czech Republic      | Seychelles          |
| Dominica            | Sierra Leone        |
| Fiji                | Singapore           |
| The Gambia          | Slovakia            |
| Georgia             | Tajikistan          |
| Ghana               | Tanzania            |
| Grenada             | Tonga               |
| Guyana              | Trinidad & Tobago   |
| Hong Kong****       | Tunisia             |
| Hungary             | Turkmenistan        |
| Jamaica             | Tuvalu              |
| Kazakhstan          | United Kingdom***** |
| Kiribati            | Ukraine             |
| Kuwait              | USSR*****           |
| Kyrgyzstan          | Uzbekistan          |
| Malaysia            | Zambia              |
|                     | Zimbabwe            |

\*In the case of Mongolia, we do not have formal agreements mandating notification. However, we have informally agreed with the country that U.S. authorities shall notify the responsible representatives within 72 hours of the detention of one of their respective nationals

\*\* Non-permanent residents only

\*\*\*When Taiwan nationals (carrying "Republic of China" passports) are detained, notification is not mandatory, and they should be told that the nearest office of the Taipei Economic Cultural Representative Office (TECRO) can be notified at their request.

\*\*\*\*Hong Kong reverted to Chinese sovereignty on July 1, 1997. U.S. Officials are required to notify Chinese officials of the arrest or detention of the bearers of Hong Kong passports in the same manner as is required for bearers of Chinese passports.

\*\*\*\*\*Please contact the respective consulate or embassy when nationals of Anguilla, British Virgin Islands, Hong Kong, Bermuda, Monserrat, and Turks and Caicos are detained.

\*\*\*\*\*Although the USSR no longer exists, some nationals of its successor states may still be traveling on its passports. Mandatory notification should be given to consular officers for all nationals of such states, including those traveling on old USSR passports.

Subject to local laws and regulations, foreign consular officials have the right to visit their arrestee/detainee nationals unless the arrestee/detainee objects to such a visit. A foreign consular officer should not take action on behalf of such a person if the person being held expressly opposes such action.

Any questions regarding foreign national procedure should be made to the U.S. Department of State.

### **10.3.11 Notice to Appear/ Pretrial Release**

An officer may, at his discretion with supervisory approval, issue a subject arrested for a first or second degree misdemeanor or violation, or violation of a municipal ordinance, a Notice to Appear (NTA) subject to the considerations set forth in Fla. R. Crim. P. 3.125 and Broward County Court Administrative Order 2021-45-Crim. The Notice to Appear may be issued at time of arrest, prior to transporting the subject to the station, or may be issued after the subject has been booked in lieu of bond.

#### **A. Notice to Appear – Criminal (State Statute Violation)**

1. A NTA shall not be issued to any person who:
  - a. Is arrested for misdemeanor driving under the influence (DUI), stalking, violation of a court order, indecent exposure (excluding public urination), battery, domestic violence, dating violence or animal cruelty.
  - b. Has pending charges and has been released from custody on an existing bond or personal recognizance.
  - c. Has an outstanding warrant or capias.
  - d. Is currently subject to conditions of probation or community control.
2. The following guidelines shall be used by the officer and supervisor in determining whether a Notice to Appear may be issued:
  - a. The subject must be a resident of Broward, Miami-Dade, or Palm Beach County.
  - b. The subject must have identification to verify his name, date of birth, and place of residence.
  - c. An NCIC/FCIC and Broward County Sheriff's Office check must be made for any outstanding warrants, with negative results.

- d. The subject must not have a past history for failure to respond to a notice or summons or has not violated the conditions of a pretrial release program.
  - e. The subject must not pose an unreasonable risk of bodily injury to themselves or others.
  - f. The activities of the subject must not indicate that he is part of a group committing this type of crime on an organized scale.
  - g. The subject must not have previously been issued a City Ordinance violation citation and failed to comply with its requirements.
  - h. The supervisor may also consider the subject's age and/or physical condition in determining whether a Notice to Appear will be issued. Old age or poor physical condition may be a major deciding factor to issue a NTA or arrest, although the previously stated criteria has not been met.
- 3. Juveniles will only be issued an NTA, for a violation of FSS 569.11, Possession of Tobacco Products under 18 Years of Age.
  - 4. A Notice to Appear does not require notarization but does need to be witnessed by another sworn officer.
  - 5. A Notice to Appear does not require a Probable Cause Affidavit to be completed.
  - 6. A NTA need not be notarized but must be signed by the offender. If the offender refuses to sign the NTA, a physical arrest will be made for the refusal to sign the NTA (F.S.S. 162.21(6) – second degree misdemeanor) and officers will follow standard arrest procedures. The offender will be charged with the original offense and any other applicable charge. The NTA will be forwarded to Records with all applicable paperwork.
  - 7. All copies of the NTA, excluding the copy designated for the defendant, shall be turned in with the officer's paperwork. A photocopy of the NTA shall be forwarded to the CSI Unit, along with the fingerprint cards.

#### **B. NTA - City Ordinance Violations**

An officer may, at his discretion (when not limited by Department policy) issue a NTA for a city ordinance violation. The NTA shall not be used to enforce parking ordinances. Only the specifically designed parking citation shall be used to cite parking violators (see General Order 25 – section 25.3.6).

**NOTE:** City Ordinance Citations will not be issued to persons arrested on felony charges. The only exception to this is when a municipal ordinance citation is the initiating violation leading to the actual felony offense and there are extenuating circumstances.

- 1. When issuing a NTA for a City Ordinance Violation, the guideline restrictions established in section A, Notice to Appear – Criminal (State Statute Violation), do not apply, as the majority of the violations are not arrestable offenses.

2. A NTA need not be notarized but must be signed by the offender. If the offender refuses to sign the NTA, a physical arrest will be made for the refusal to sign the NTA (F.S.S. 162.21(6) – second degree misdemeanor) and officers will follow standard arrest procedures. The offender will be charged with the original offense and any other applicable charge, (i.e., possession of alcohol in park, etc.). The NTA will be forwarded to Records with all applicable paperwork.
3. The NTA is designed to eliminate the need for a Probable Cause Affidavit or a report; therefore, the narrative section must articulate the probable cause for the NTA in detail. A report may be written at the officer's discretion. A case number is required and shall be placed on the NTA. in the appropriate space.
4. Protocols for issuing the NTA are:
  - a. Offender receives a copy of the NTA. If using the NCR form, the offender would receive the gold copy.
  - b. The City Ordinance violation number will be written or typed on the line provided on the NTA and the appropriate box that lists offenses and fines will be checked on the reverse side of the gold NCR copy, if used, or the NTA City Ordinance Violation form if printed electronically. If the charged offense is not listed, check the "other" box and write offense in the space provided.
  - c. The narrative detailing the factual account of the incident shall be written or typed in the space provided on the face of the NTA. There are separate lines for co-defendant, victim/witness, and property and objects information. If physical evidence or photographs are taken, note the property locker number in the property and objects section.
  - d. The Court Liaison shall forward court date information to officers and the Communications Center. The court date for an NTA issued for a city ordinance violation shall be 14 days later than the court date for a NTA issued for a criminal (state statute) violation.
  - e. If the officer makes an error on the NTA prior to issuance and voids the NTA, all copies must be submitted to the Chief of Police, via the chain of command, with an explanation for the voiding, and advising what action was taken.
  - f. If the NTA is completed and issued, only the Court can dispose of it. The Chief of Police, via the chain of command, must approve any requests for dismissal.
5. Juveniles may only receive a state citation for violations of pedestrian and bicycle statutes.
6. The following guidelines shall be followed for incidents involving Littering on Public or Private Property:
  - a. The littering ordinance separates littering into two sections; less than fifteen (15) pounds and fifteen (15) pounds or more.
  - b. Violations for less than fifteen (15) pounds – the officer may issue a NTA.

c. Violations for fifteen (15) pounds or more – the officer may make a physical arrest. After processing, a NTA for a State Statute or City Ordinance Violation, may be issued if prior requirements in section A, Notice to Appear – Criminal (State Statute Violation) are met.

d. The following information must be included on the NTA:

(1) Specify whether the offense occurred on public or private property.

(2) State the offense occurred without permission of the owner (if owner's permission was obtained, ordinance was not violated).

(3) Describe trash (i.e., bag of grass clippings, motor vehicle parts, etc.).

(4) Describe specific location, (i.e., West Sample Road, approximately 700 feet west of State Road 7 and approximately 25 feet north of north edge of pavement).

(5) Take photographs of trash and impound and tag required evidence.

7. The following guidelines shall be followed for incidents involving the placing of Handbills on Motor Vehicles Ordinance:

a. If offender has distributed less than five (5) pounds of handbills, the officer may issue a NTA or make a physical arrest. Following the physical arrest procedure, the subject may be released if requirements are met.

b. If offender has distributed five (5) pounds or more of handbills, the officer may make a physical arrest. After processing, a N.T.A. may be issued if prior requirements in section A are met.

c. If littering or handbill distribution is not observed by the officer, a citation may be issued or an arrest made based on a written sworn affidavit from a witness.

8. Court and Process

a. Offender is given fourteen (14) days to pay fine associated with the NTA for the City Ordinance Violation.

b. If the fine is not paid, the NTA will be forwarded to the Clerk of Courts and the City Attorney's Office.

### C. Bond

Prisoners may be released on bond, if applicable. They will have an opportunity to contact a bail bondsman after admission to CSPD. All persons charged with felony offenses, arrested on warrants, or arrested on capiases shall not bond out of CSPD. Persons arrested for misdemeanor offenses (except for DUI and domestic violence offenses) or for City Ordinance violations may post bond at CSPD. Prisoners who refuse to be processed may not bond out.

## D. Barring Action Forms

Barring Action forms are designed to allow a property owner/manager to prohibit a person from returning to their specific property, due to illegal or disruptive actions by said person. The form must specifically detail the reason for the barring. This barring will be for a predetermined time period.

### 1. Officer Actions

- a. While on duty, officers may not act as the authorized agent for private property for the purpose of signing a Barring Action form. However, officers may act as the authorized agent if they are employed in an Off Shift Police Service (Detail) capacity.
- b. **NOTE:** When a private property owner/manager has entered in to a barring partnership with the Department, it must include the posting of the approved trespassing sign. If no sign is posted, a representative of the property must be on-scene to advise the subject they are trespassing; the officer shall act as the authorized agent. If there are no posted signs or a representative on scene, and officer is not authorized to bar from the property.
- c. By order of the City Manager, officers are authorized agents of any City owned property. However, if a City employee is on duty at the site of the barring action, that individual should act as the authorized agent for the City.
- d. Barring Action forms on private property shall be signed by the authorizing agent and the agent shall verbally advise the subject. The officer will also sign the form and issue it to the subject.

### 2. Time Limits

Barring actions that do not involve a felony, may not exceed 90 days on a first offense. For a second offense, or for any felony, an individual may be barred for one year.

### 3. Reporting

After issuing the Barring Action form, the officer shall notify Communications of the proper disposition. Any barring action for more than one year, or with extenuating circumstances, requires a detailed Incident Report. The original Barring Action form will be sent to Records with a copy of the form sent to the Communications Unit by the issuing officer.

## 10.3.12 Sick or Injured Prisoners

- A. All attempts will be made to refrain from making physical arrests, pending hospital treatment and review of proper charges.
- B. When misdemeanor charges may be pending, the Shift Supervisor shall decide whether to issue NTA to the subject, file a Not in Custody affidavit, or contact the hospital and request the Department be notified when the subject is going to be released, so a physical arrest can be made.

- C.** When felony charges are pending, security will be provided while all pertinent information is gathered and, a Probable Cause Affidavit is completed. The arrest paperwork will be hand carried to BSO Booking. The officer/investigator will leave a copy of the document with the BSO Booking Supervisor and advise them of the facility where the subject is being held to include a hospital room number. The officer/investigator will ascertain when CSPD officers will be relieved and prepare a supplement report regarding actions taken.

### **10.3.13 Traffic Violations**

- A.** All sworn officers shall take appropriate enforcement action for each traffic violation witnessed by or reported to them. Grace periods required by the Legislature are the only ones authorized for new laws.

Officers will use discretion. All enforcement action will be carried out in a firm, fair, impartial, and courteous manner using either:

1. Verbal warning
2. Written warning
3. City Ordinance Citation
4. State Uniform Citation
5. Physical arrest

**B. Physical Arrest**

1. Officers should make a physical arrest for the following violations if further investigation is not required:
  - a. Driving under the influence of alcohol or drugs
  - b. Negligent homicide
  - c. Hit and run causing death or great bodily injury
  - d. Reckless driving

2. The officer may also arrest for:

Suspended driver's license: a traffic citation shall be issued and the violator may be arrested. If the violator has multiple suspensions or a revoked license, a physical arrest should be made. Under no circumstances will a violator with a suspended or revoked license be permitted to drive.

**C. Uniform Traffic Citations**

1. Procedure for accurate and complete uniform traffic citations will be as follows:
2. Citations will be PRINTED clearly, not written in script.

3. All applicable sections of the citation will be filled out completely. "N/A" will be used for sections that do not apply.
4. Violator's first and last names will be spelled out; an initial may be used in lieu of the middle name.
5. Classification of plates (i.e., dealer, etc.) may be noted above the license number.
6. If a violation is accident related, it shall be noted on the citation.
7. Exact location of the violation should be entered on the citation.
8. Cite the specific State Statute number, noting hyphens and periods accurately.
9. Officers will sign their names and print their Department identification number (PD #). If the signature is not legible, the officer's name must also be printed on the citation.

#### **D. Juvenile Traffic Offenders**

1. A juvenile traffic offender is a child who violates a provision of Chapter 316 FSS. The court of original traffic jurisdiction is the County Court, therefore:
  - a. Traffic summons procedure should be followed in routine offenses if no serious circumstances exist.
  - b. In the above situations, procedures that apply to adults are to be followed for juveniles.
2. Should the traffic violation be a felony, or the juvenile is physically taken into custody for a traffic misdemeanor, officers shall:
  - a. Follow current arrest, booking, and release procedures for juveniles.
  - b. Juveniles arrested for both misdemeanor and felony offenses shall be transported to JAC, unless approved by a supervisor.
3. A state citation may be issued for failure to wear an approved bicycle safety helmet while riding a bicycle if the juvenile is under the age of 16.
  - a. The CAD should be checked for the juvenile's name to confirm a warning has been given before issuing the state citation.
  - b. If this is the first contact and the officer writes the juvenile a warning he should make sure that the juvenile's name is added to the CAD.
4. The Records Unit will be responsible for sending a letter to the juvenile's parents to inform them of violation.

#### **E. Foreign Drivers**

Foreign drivers are required to carry an International Driving Permit when driving in the United States. They must also possess a valid vehicle registration and valid license plates. Foreign individuals must immediately acquire a domestic driver's license when declaring United States residency.

#### **F. Unqualified Drivers**

Officers may request re-examination of a driver by the Department of Highway Safety and Motor Vehicles by forwarding a memo and a completed DHSMV Form 90003 through their supervisor. Reasons for the recommendation must be explained in the narrative section of the DHSMV Form, and the correct box on the form must be checked.

#### **10.3.14 In-Custody Deaths**

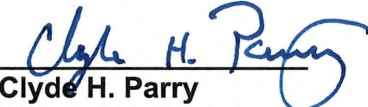
- A.** An investigation will be conducted if a subject dies while in the custody of the Department.
- B.** The Florida Department of Law Enforcement shall conduct the investigation.
- C.** The investigation will be conducted with the procedures outlined in the written Memorandum of Understanding with FDLE and General Order 3.3.3 – Investigating the Use of Lethal Response.

#### **10.3.15 Actions Causing Serious Injury or Death**

- A.** Any member whose actions, whether accidental or deliberate, including Response to Resistance, results in a death or serious physical injury shall be placed on administrative leave pending a documented review of the incident. If placed on administrative leave, the involved member shall remain subject to recall for duty in accordance with GO 26.
- B.** The member will be required to complete any written reports as required by the incident type including, but not limited to, response to resistance reports, traffic crash reports, incident reports, or supplemental reports. These items shall be completed within 72 hours. See 3.3.6D for specific reporting requirements if the death or serious physical injury resulted from a response to resistance.
- C.** Prior to completing any reports or making any statements, the involved member may consult with an attorney.
- D.** The investigation will be conducted with procedures outlined in the written Memorandum of Understanding with FDLE and General Order 3.3.3 – Investigating the Use of Lethal Response.

#### **10.3.16 Baker Act Procedures – Refer to General Order 66A**

**APPROVED**

  
Clyde H. Parry  
Chief of Police