

Cleveland Community Police Commission

**Recommendations for Probable Cause/Warrantless Arrests GPO**

Version filed 01/17/2020	Recommended Modifications	Comments
<p>PURPOSE: To establish Cleveland Division of Police guidelines so that all arrests are conducted in accordance with the rights secured and protected by Constitution and federal and state law. The Division will conduct arrests fairly and respectfully as part of an effective overall crime prevention strategy consistent with community values.</p>	<p>PURPOSE: To establish Cleveland Division of Police guidelines so that all arrests are conducted in accordance with the rights secured and protected by <b>the United States and Ohio Constitutions</b> and federal and state law. The Division will conduct arrests fairly and respectfully as part of an effective overall crime prevention strategy consistent with community values.</p>	<p>Purpose</p>
<p>Arrest: The taking of a person into custody by an officer based upon a warrant or probable cause. To constitute an arrest, there must be an actual restraint of the person. The restraint may be imposed by force or may result from the submission of the person arrested to the custody of the officer arresting him/her. An arrest is a restraint of greater scope or duration than an investigatory stop or detention.</p>	<p>Arrest: The taking of a person into custody by an officer based upon a warrant or probable cause. To constitute an arrest, there must be an actual restraint of the person. The restraint may be imposed by force or may result from the submission of the person arrested to the <b>authority or</b> custody of the officer arresting him/her. An arrest is a restraint of greater scope or duration than an investigatory stop or detention.</p>	<p>Definitions</p>
<p>Added</p>	<p>Juvenile Detention Center (JDC): The temporary care of individuals under the jurisdiction of the Court for whom secure custody is necessary, based on a public safety risk assessment as determined by the court. The location is the Cuyahoga Juvenile Justice Center.</p>	<p>Definitions</p>
<p>Added</p>	<p>Youth/Juvenile: An individual under the age of 18.</p>	<p>Definitions</p>
<p>2. Has probable cause that the subject has committed or is committing certain</p>	<p>2. Has probable cause, <b>per ORC Section 2935.03</b>, that the subject has committed, or is</p>	<p>Procedure I A</p>

<p>misdemeanor offenses (e.g. an offense of violence, criminal child enticement, public indecency, domestic violence, violation of a protection order, menacing by stalking, aggravated trespass or theft); or</p>	<p>committing certain misdemeanor offenses, <b>or though not committed in the officer's presence</b> (offense of violence, criminal child enticement, public indecency, domestic violence, violation of a protection order, menacing by stalking, aggravated trespass or theft); or</p>	
<p>D. Prior to interrogating an individual, officers shall advise arrestees of their full Miranda rights. (Refer to GPO 2.02.01, Miranda Warning and Waiver)</p>	<p>D. Prior to interrogating an individual, officers shall advise arrestees of their full Miranda rights. (Refer to GPO 2.02.01, Miranda Warning and Waiver; <b>and for youth/juvenile arrestees refer to GPO 5.12.01, Youth Interactions</b>)</p>	<p>Procedure I D</p>
<p>A. Officers may enter a residence without a warrant to make a warrantless arrest when officer(s) reasonably believe the person is within the residence at the time of entrance and:</p>	<p>A. Officers may enter a residence without a warrant to make a warrantless arrest <b>only</b> when officer(s) reasonably believe the person is within the residence at the time of entrance and:</p>	<p>Procedure II A</p>
<p>1. Consent to enter the residence is given by a person who shares access and control of the premises. The burden is on the officer to ascertain whether the person granting access has the right to give permission (Refer to GPO 2.02.03, Search and Seizure III. E); or</p>	<p>1. Consent to enter the residence is given by a person who shares access and control of the premises. The burden is on the officer to ascertain whether the person granting access has the right to give permission (Refer to GPO 2.02.03, Search and Seizure III E). <b>a) The officer shall inform the person that they have the right to refuse consent, and</b> <b>b) All consented to searches shall be recorded on the officer's WCS; or</b></p>	<p>Procedure II A</p>
<p>2. Exigent circumstances exist (e.g., hot pursuit, spontaneous violence, prevention of a crime, or imminent escape to avoid apprehension).</p>	<p>2. Exigent circumstances exist (e.g., hot pursuit, spontaneous violence, <b>prevention of imminent threat of death or serious injury</b>, or imminent escape to avoid apprehension). <b>A warrantless entry of a home</b></p>	<p>Procedure II A</p>

	<p><b>in hot pursuit of a misdemeanor is decided on a case-by-case evaluation depending largely upon the seriousness of the misdemeanor. Flight creates a compelling need, but not in every misdemeanor case. The officer must have good cause to enter the home –to prevent imminent harm of violence, destruction of evidence, or escape from the home, but when there is time the officer must obtain a warrant. (Lange v. California, June 23, 2021)</b></p>	
<p>C. Officers shall have their immediate supervisor review and notarize the PC affidavit form before conveying the arrestee to the Cuyahoga County Corrections Center (CCCC), if feasible. The PC affidavit form shall be submitted to the county booking officers at the time of booking.</p>	<p>C. Officers shall have their immediate supervisor review and notarize the PC affidavit form before conveying the <b>arrestee, detainee to a diversion center, the Cuyahoga County Corrections Center (CCCC), or the Juvenile Detention Center (JDC)</b>, if feasible. The PC affidavit form shall be submitted to the county booking officers at the time of booking.</p>	<p>Procedure IV C</p>
<p>A. The Division shall provide officers with annual in-service training on Search and Seizure/probable cause/warrantless arrests that is adequate in quality, quantity, type, and scope.</p>	<p>A. The Division shall provide officers with annual in-service training on Search and Seizure/probable cause/warrantless arrests that is adequate in quality, quantity, type, and scope. <b>Training on the policies shall be given in-person by a J.D. with subject matter expertise, given the policies' importance and complex nature (per Cleveland City Ordinance § 135.37).</b></p>	<p>Procedure VIII A</p>