

Police Department Policy and Procedure Manual

Chapter 4 — Operations

Section Number: 4-5-3
Section Title: Arrest Procedure
Most Recent Update: 5/7/18

I. Policy

- A. The purpose of this section is to establish policy and procedures for managing the arrest process.

II. Definitions

- A. Seizure-The “seizure” of a person requires at least that a “reasonable person would have believed that he/she was not free to leave”. This definition was further restricted in 1991 so that a “seizure” of a person does not occur until the person submits or yields to physical force or a show of authority by the police. A person is “arrested” when a person is taken into custody “in the manner authorized by law, including restraint of the person or the person’s submission to custody”. See Iowa Code §804.5. An individual may be “seized” without being under “arrest”.

- 1. The subjective motivation of a police officer to seize an individual does not make continued detention illegal in and of itself.

- B. Police Contact-Not all contact between police and citizens amounts to a seizure:

- 1. Law enforcement officers do not violate the Fourth Amendment by merely approaching an individual on the street or in another public place, by asking if he/she is willing to answer some questions, by putting questions to them if the person is willing to listen, or by offering in evidence in a criminal prosecution their voluntary answers to such questions. Nor would the fact that the officer identifies himself/herself as a police officer, without more, convert the encounter into a seizure requiring some level of objective justification. The person approached, however, need not answer any question put to him/her; indeed, he/she may decline to listen to the questions at all and may go on his/her way. He/she may not be detained even momentarily without reasonable, objective grounds for doing so; and his/her refusal to listen or answer does not, without more, furnish those grounds. If there is no detention – no seizure within the meaning of the Fourth Amendment – then no constitutional rights have been infringed.

2. Terry-Stop Detention-A police officer may detain a citizen briefly for purposes of investigation when the officer, in light of experience and training, is aware of articulable facts or circumstances which could lead a reasonably prudent person to believe that a crime has occurred, criminal activity is going to occur, or someone is otherwise in need of police assistance. This level of proof is more than a hunch, but less than a preponderance of the evidence.
3. Probable Cause-An arrest requires “probable cause”. See Iowa Code §804.07. “Probable cause” to arrest exists when a police officer, in light of experience and training, is aware of articulable facts or circumstances which could lead a reasonably prudent person to conclude that a suspect has committed, or is in the process of committing a criminal act.

III. Procedures

A. Place of Arrest

1. An arrest in a public place on probable cause does not require a warrant.
2. Arrest in a suspect’s home requires an arrest warrant unless it falls within an exception listed below. *See also* Knock and Announce, below.
3. Arrest in a third party home, absent consent or exigent circumstances, requires an arrest warrant and a search warrant or consent from the resident.

B. Exceptions to Warrant Requirement

1. Exigent circumstances-Under exigent circumstances, police may enter a private dwelling without a warrant in order to affect an arrest. Criteria for determining if there are exigent circumstances include (1) a grave offense is involved; (2) the suspect is reasonably believed to be armed; (3) probable cause to believe the suspect committed the crime; (4) strong reason to believe suspect is on the premises; (5) strong likelihood of escape if not apprehended; and (6) the entry, though not consented to, is peaceable.
2. Hot pursuit-Peace officers may pursue a suspect into a private place (including a residence) and make a warrant-less arrest when the arrest was set in motion in a public place.

C. Contents of an Arrest Warrant

1. Iowa Code §804.2, states that an arrest warrant must include the following:
 - a. The warrant must be directed to any peace officer in the state; give the name of the defendant, if known to the magistrate; if unknown, may designate “name unknown”; and must state by name or general description an offense which authorizes a warrant

to issue; the date of issuing it; the county or city where issued; and be signed by the magistrate with the magistrate's title.

- b. On the warrant, there must be an endorsement for bail. See Iowa Code §804.3.
- 2. An arrest warrant issued on the basis of a complaint that sets forth the probable cause to believe the defendant committed the crime. The complaint must be approved by a magistrate. See Iowa Code §804.1.

D. Who Can Make an Arrest and When

- 1. A peace officer, with or without a warrant can make an arrest:
 - a. For a public offense committed or attempted in the peace officer's presence.
 - b. Where a public offense has in fact been committed and the peace officer has reasonable grounds for believing that the person to be arrested has committed it.
 - c. Where the peace officer has reasonable grounds for believing that an indictable public offense has been committed and has reasonable grounds for believing that the person to be arrested has committed it.
 - d. Where the peace officer has received from the department of public safety, or from any other peace officer of this state or any other state or the United States, an official communication by bulletin, radio, telegraph, telephone, or otherwise, informing the peace officer that a warrant has been issued and is being held for the arrest of the person to be arrested on a designated charge.
 - e. If the peace officer has reasonable grounds for believing that domestic abuse, as defined in Iowa Code §236.2, has occurred and has reasonable grounds for believing that the person to be arrested has committed it. Iowa Code §804.7. An "indictable public offense" means an offense other than a simple misdemeanor. Iowa Code §801.4(13). Only a peace officer can arrest on a warrant. Iowa Code §804.4.
 - f. "Public offense" includes municipal ordinance violations.
- 2. Municipal Officers
 - a. A municipal police officer has authority to arrest for state traffic violations anywhere in the State. Such an officer also has authority to arrest and invoke implied consent procedures anywhere in the State provided the officer has the necessary training under Iowa Code §321J.1(7)(e).

E. Knock and Announce Requirement

1. Iowa Code §804.15 states if an officer has reasonable cause to believe a resident, for whom the officer has an arrest warrant, is present on premises, the officer must identify himself/herself and the purpose of entry. If such demand is not promptly complied with, the officer may thereupon enter such premises to make the arrest, using such force as is reasonably necessary. However, an arrest warrant that can be executed from the outside of a dwelling does not authorize entry into the dwelling. Additionally, the right of the officers to enter does not exist once the suspect comes to the door as a result of the police knocking and announcing. If the suspect can be arrested at the threshold, there is no right of police entry.

F. Pre-textual Arrests

1. A search conducted pursuant to a pre-textual arrest is not invalid if the police have probable cause for the pre-textual arrest. A pretext entry into a home with an arrest warrant so as to observe items in the room is permissible because the subjective identity of the officer is irrelevant; as long as a valid reason for the officers' presence exists; the officers' real motives are of no usefulness.

G. False Arrest

1. Officers shall not make any arrest which they know is not in accordance with law and established department procedures or policies.

H. Diplomatic Immunity

1. The United States Department of State, Office of Protocol, issues identification documents to foreign government personnel who are entitled to immunity. Because there are different degrees of immunity, law enforcement officers should read carefully identification cards presented to them. Questions regarding an individual's status or immunity should be referred during working hours to the Office of Protocol (202) 647-1985; after hours to the Bureau of Diplomatic Security (202) 647-7277.
2. Any Officer having contact with a Foreign National claiming diplomatic immunity shall contact their supervisor prior to any arrest or detainment unless such arrest or detainment is necessary to prevent the loss of life or continuation of a crime. The supervisor shall make a determination as to the qualification of immunity and may by consult with the United States State Department at the phone numbers provided above.

I. Consular Notification Process

1. If a detainee advises the arresting officer that he/she is not a US Citizen the following shall be followed:

- a. Determine Nationality
- b. If the country is on the Mandatory list:
 - (a) Inform the detainee of her/her right to communicate with their consulate, and that the consulate must be informed of the arrest.
 - (b) Inform the Consulate of the detainee's country. This can be done by an on-line search of that country
 - (c) Document the notification in your report
- c. If the country is not on the mandatory list:
 - (a) Inform the detainee of his/her right to contact their consulate
 - (b) Ask if they want their consulate notified
 - (c) Document the refusal or notification in your report



Michael G. Venema
Chief of Police