



# FAIRBURN GEORGIA POLICE DEPARTMENT OPERATIONS MANUAL



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## CHAPTER 8          Arrest Procedures

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## **I. PURPOSE**

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- C Establishes a standard operating procedure for taking a suspect into custody.
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- E Establishes a standard operating procedure for taking confessions and conducting interrogations.

## **II. DEFINITIONS**

- A **ARREST** - The restraint of the liberty of a person 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.
- B **ARREST WARRANT** - A written judicial command to arrest a particular individual and to bring the arrestee promptly before the magistrate issuing the warrant or other appropriate judicial officer. Oral or telephone warrants do not exist.
- C **INVESTIGATIVE DETENTION** - An investigative detention occurs when an officer, based on his/her natural senses, experience, and good judgment suspects that criminal activity may be occurring and has reasons that he/she can express to support his/her suspicion. He/she may then detain a subject briefly to investigate his/her suspicions. He/she may frisk the subject's outer garments if there is reason to believe the subject is armed and dangerous.
- D **PROBABLE CAUSE** - Those facts and circumstances which would lead a reasonable and prudent person to believe that a crime has been committed, or that the suspected person has committed an offense.
- E **WITHIN THE OFFICER'S IMMEDIATE KNOWLEDGE** - When, by seeing, hearing, or using any of the other senses, the officer has personal knowledge of the commission of a crime. This is equivalent to "in the officer's presence". This excludes reporting of a crime by any third party other than another law enforcement officer who has direct knowledge of a crime.

## **III. RULES AND REGULATIONS**

- A **Arrest Without a Warrant**- An arrest without a warrant must be based on probable cause. In the state of Georgia, officers may make an arrest without a warrant in the following instances:
  - 1. When an offense is committed in the officer's presence or within his/her immediate knowledge;
  - 2. When an offender is attempting to escape;
  - 3. When an officer has probable cause to believe an act of family violence has been committed;

4. When for other cause there is likely to be a failure of justice for want of a judicial officer to issue a warrant;
5. To prevent the commission of a felony (This exception should only be utilized when the criminal act is imminent.);
6. Upon receiving information from a law enforcement officer who observed an offense being committed, provided such information would constitute the basis for arrest had it been committed in the arresting officer's presence. (The warrant issued must list the name of each officer(s). If more than one officer is involved, they should all be present when charges against the offender are heard); and

All of the above exceptions are based on timeliness; if enough time has passed for a warrant to have been obtained, an arrest without a warrant may not be upheld.

7. Outside of the time restriction, a seventh exception is noted, that of a fugitive arrest based on belief that a warrant exists in the jurisdiction from which the suspect fled. An officer has limited power to arrest without a warrant beyond the boundaries of his/her jurisdiction except for when the officer is in hot pursuit that is continuous and uninterrupted (an officer may temporarily lose sight of the suspect). No officer will arrest any person without a warrant when he/she knows that he/she is without reasonable cause to arrest such person.

**B Arrest with a Warrant-** The execution of arrest warrants will only be conducted by sworn officers who are in compliance with the GA POST Council.

1. Jurisdiction - An arrest warrant may be issued in any county in Georgia, even for a crime committed in another county. Once issued, a warrant may be carried from one county to another. The warrant may be served in any county of the state regardless of where it was issued.
2. Contents - A valid arrest warrant must contain specific information as required by statute, court decisions and the Uniform Rules of the Superior, State and Magistrate Courts. Such information includes:
  - a) The authority under which the warrant is issued;
  - b) Identification of the person who is to execute the warrant, generally addressed: "To any sheriff, deputy sheriff, coroner, constable, marshal, or police officer";
  - c) Identification of the person to be arrested;
  - d) The name of the offense committed;
  - e) The date and place of occurrence of the offense, including the county in which it was committed;
  - f) Identification of the victim; and
  - g) A description of the offense, including all of the elements of the offense;

h) In addition, when the offense charged is a theft, the warrant must contain:

- (1) A description of the property alleged to have been stolen;
- (2) Identification of the owner of the stolen property;
- (3) The value of the stolen property; and
- (4) The person from whose possession it was taken.

Without strict compliance with the above, the warrant may not be valid.

3. No officer will arrest any person under color of a warrant unless he/she reasonably believes a valid warrant exists and that the person described in the warrant is before him/her.

An officer making a lawful arrest has the right to use whatever force is reasonable to accomplish the arrest, but no more than is reasonable to take the suspect into custody (see Chapter 11 – Response to Resistance).

- C Alternatives to Physical Arrest - What is reasonable in terms of appropriate police action or what constitutes probable cause varies with each situation. The particular facts and circumstances may justify an investigation, detention, a search, an arrest, or no action at all. In some cases, when the offense is of a minor nature, a verbal warning or other action may be taken. The requirement that legal justification be present imposes a limitation on an officer's action. In every case, an officer must act reasonably within the limits of his/her authority as defined by statute and judicial interpretation.

Whether a person is arrested or released with a copy of charges (citation), officers will not inhibit the person's right of access to the courts. This is accomplished by assigning or obtaining a court date. If the case is sent to Municipal Court, the officer will assign a court date. State and Superior Court dates are assigned by those courts, and they will make defendant court date notifications.

- D Immunity from Arrest - Federal and state laws provide that under certain circumstances, individuals may be immune from arrest. With the limited exception of certain diplomatic officials, immunity from arrest does not preclude prosecution of the individual for the offense for which immunity from arrest is claimed.

Supervisors should be immediately advised of the arrest of any person identified in this section.

1. Members of Congress - U.S. Senators and Representatives are free from arrest during their attendance at Congress and in going to and from sessions of Congress except for "treason, felony, or breach of the peace."
2. Members of the Georgia General Assembly - The members of the Georgia General Assembly are free from arrest during their attendance at the General Assembly and in going to and from sessions except for "treason, felony, or breach of the peace."

### 3. Others Exempt from Civil Arrest

a) Georgia National Guard - Members of the Georgia Army National Guard and the Georgia Air National Guard are privileged from arrest, except in cases of treason, felony, or breach of the peace, under the following circumstances:

- 1) While attending drill;
- 2) During parades;
- 3) When attending meetings, encampments, and election of officers; and
- 4) While going to, during and returning from the performance of active duty.

In any incident in which a person asserts immunity based on membership in the National Guard, a full report of the incident will be submitted. It is the policy of this Agency that all incidents in which a member of the National Guard asserts immunity from arrest will be reported to the Adjutant General of the Georgia National Guard for appropriate action under the Georgia Code of Military Justice.

- b) The members of the organized militia or military forces shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at drills, parades, meetings, encampments, and the election of officers and going to, during, and returning from the performance of any active duty as such members.
- c) Poll Officers - Registrars and deputy registrars appointed by the board of registrars or board of elections of the county or the Secretary of State are immune from arrest on primary and election days, except for fraudulent misconduct of duty, felonies, or breach of the peace.
- d) Voters - Citizens are immune from arrest on Election Day while voting.
- e) Witnesses - A person who has been subpoenaed as a witness is immune from arrest on civil process while going to or returning from court. A person asserting immunity as a witness should be able to produce either a subpoena or a court order in the case of witnesses appearing under the Uniform Act to Secure the Attendance of Witnesses as proof of his/her status. Verification may be requested from the Clerk of the Court that issued the subpoena.

**STANDARD OPERATING PROCEDURE  
EFFECTIVE: 05/19/2008**

**S.O.P. 8-1 STOP, ARREST & SEARCH OF PRISONERS**

**I. PURPOSE**

The purpose of this policy is to direct the members of this agency on the lawful limits of authority with respect to contacts with persons.

**II. POLICY**

The policy of this agency is to protect and serve the constitutional rights of all citizens when stopping, arresting or searching individuals while balancing the needs of law enforcement in solving crime for the protection of the community.

**III. DEFINITIONS**

- A Probable Cause (search): Facts and circumstances based upon observations or information that would lead a reasonable law enforcement officer to believe that evidence of crime exists and that the evidence exists at the place to be searched.
- B Probable Cause (arrest): Facts and circumstances based upon observations or information that would lead a reasonable law enforcement officer to believe that a crime has been or is being committed and the person to be arrested is the one who is or has committed the crime.
- C Reasonable Suspicion (temporarily detain): Facts and circumstances based upon observations or information, short of probable cause but based upon articulated facts that would lead a reasonable law enforcement officer to believe that criminal activity is afoot.
- D Reasonable Suspicion (frisk): Facts and circumstances based upon observations or information, short of probable cause but based upon articulated facts that would lead a reasonable law enforcement officer to believe that a person who is lawfully stopped is armed and dangerous.
- E Frisk (weapon): A limited type of search, the limit being to those areas capable of holding a weapon and located within the subject's immediate area of control.
- F Strip search: The removal or rearrangement of clothing that results in the exposure to touch or view of a portion of a person's body where that person has a reasonable expectation of privacy.
- G Consensual Contact: An interaction between a member of law enforcement and the public that is voluntary in nature. The law enforcement member has shown no authority that would cause a reasonable person to believe that they had no choice but to respond or comply with the officer's efforts. Under this type of contact an officer has no power to detain an individual who chooses not to participate in the contact.

## IV. PROCEDURES

- A Consensual Contact (Tier 1 stop) - An officer may approach anyone and attempt a consensual contact.
1. Officers are not required to have reasonable suspicion for this type of contact.
  2. Officers may not take any steps through words or conduct to stop the person's movement under this type of stop.
  3. A person cannot be compelled in any way to participate in the stop.
- B Reasonable Suspicion Based Stops/Terry Stops (Tier 2 stop) - An officer who is aware of facts and circumstances that would lead a reasonable police officer to conclude that criminal activity is afoot, may stop a person, using reasonable force short of deadly force, and detain the person for a reasonable amount of time to investigate further.
1. Officers may detain the person for a reasonable amount of time at the location of the stop while a diligent investigation is conducted such that the officer has an opportunity to confirm or dispel their suspicion.
  2. Anonymous tips that merely describe a person's location and physical/clothing description without providing a prediction of the subject's future actions that can be corroborated by the police prior to contact are insufficient to justify a stop or frisk.
  3. The duration of the stop should not exceed the amount of time that it would normally take to investigate the conduct that the officer suspected at the time the stop was made.
  4. Officers may not frisk every person who is stopped in accord with this policy. An officer may only frisk those individuals for whom the officer has reasonable suspicion to believe is armed with a weapon.
- C Reasonable Suspicion Based Frisk - An officer may conduct a limited frisk/pat-down of a person's outer clothing when the officer has reasonable suspicion to believe that a person who has been lawfully stopped is in possession of a weapon that poses a danger to the officer or others present.
1. Items that may support reasonable suspicion:
    - a) The type of crime for which the stop is based is one that would lead a reasonable officer to conclude generally involves a weapon.
    - b) The officer observes a bulge in the subject's clothing that has the appearance of a weapon.
    - c) The officer has information (anonymous tip merely providing description and location is not enough) indicating that a person is armed.
    - d) The officer is aware of the subject's history of carrying weapons.

- e) The officer observes the subject reach as if reaching for, or reaching to hide a weapon (furtive movements).
  - 2. The frisk is limited to a pat-down of the outer clothing and does not include reaching into pockets etc. unless the officer feels an item during the frisk that the officer reasonably believes is a weapon.
- D Arrest (Tier 3 stop): An officer may arrest an individual if the officer has probable cause to believe that a crime has been committed and probable cause to believe that the person to be arrested is the person who committed that crime. Once probable cause is established an officer may take custody of the subject and involuntarily transport the subject.

If the person to be arrested is in a dwelling - refer to Home Search Policy / if the person to be arrested is in a vehicle - refer to Vehicle Search Policy.

- 1. Under Georgia law officers may make an arrest: with or without a warrant:
  - a) if the offense is committed in such officer's presence or within such officer's immediate knowledge;
  - b) if the offender is trying to escape;
  - c) if the officer has probable cause to believe that an act of family violence, as defined by law has been committed;
  - d) If the officer has probable cause to believe that an offense involving physical abuse has been committed against a vulnerable adult, who shall be for the purposes of this subsection a person eighteen (18) years old or older who is unable to protect himself or herself from physical or mental abuse because of a physical or mental impairment;  
or
  - e) For other cause if there is likely to be failure of justice for want of a judicial officer to issue a warrant.
- 2. Officers may make warrantless arrests outside of a person's residence if probable cause exists for the arrest. The sources of probable cause include:
  - a) Officer observations through the five (5) senses
  - b) Officer background and experience
  - c) Specialized Training
  - d) Information Received
    - (1) Citizen report
    - (2) Government
    - (3) Paid Informants

- (4) Anonymous
- e) Physical Evidence
  - (1) At Scene
  - (2) On Suspect
- f) Circumstantial Evidence
  - (1) Description of subject
  - (2) Time and Place relationship between crime scene and stop
  - (3) Suspect History
  - (4) Suspect Flight
  - (5) Type of Area (i.e. high crime area)
- g) Traffic Arrests: Under the Georgia Code
  - (1) Officers may issue a citation in lieu of a custodial arrest for violations of traffic laws committed in their presence or involving a traffic collision.
  - (2) An officer may make warrant less arrests for misdemeanors committed in the presence of the officer.
  - (3) If the operator of a vehicle refuses to sign a traffic citation, the officer may make a custodial arrest in order for the operator to post a bond and ensure an appearance in court
  - (4) Where the operator of a vehicle displays a license the officer shall not make a custodial arrest unless the traffic offense falls within one of the following violations.
    - (a) 40-5-20.1 No License
    - (b) 40-5-58 Habitual Violator
    - (c) 40-5-120 Unlawful use of license or personal identification card
    - (d) 40-5-121 Suspended License
    - (e) 40-5-125 Violations relating to application for and use of driver's license
    - (f) 40-6-270 Duty in accidents involving personal injury to or death of person or damage to vehicle.

- (g) 40-6-390 Reckless driving
- (h) 40-6-391 DUI
- (i) 40-6-393 Homicide by vehicle
- (j) 40-6-394 Serious injury by vehicle
- (k) 40-6-395 Fleeing or attempting to elude a police officer
- (l) 40-6-396 Homicide/serious injury by interference with official traffic control device
- (m) 40-6-397 Aggressive driving
- (n) 40-6-186 Racing on Highways or Streets
- (o) Any felony where a vehicle is used
- (p) Any offense for which a driver's license may be suspended for the first offense by the commission of motor vehicle safety

## E Juvenile Arrest Procedures

1. A child may be taken into custody:
  - a) Pursuant to an order of the court
  - b) Pursuant to the laws of arrest;
  - c) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has committed a delinquent act or if there are reasonable grounds to believe that he or she is an unruly child;
  - d) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child is suffering from illness, deprivation, or injury or is in immediate danger from his or her surroundings and that his or her removal is necessary;
  - e) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has run away from his or her parents, guardian, or other custodian;
  - f) By a law enforcement officer or duly authorized officer of the court if a parent or guardian of a child has contacted a law enforcement agency and reported that the child is absent from parental custody without consent and a proper facility is available for placement of the child; or
  - g) By a law enforcement officer or duly authorized officer of the court if a child is violating a curfew and a proper facility is available for placement of the child.

2. A child that has been taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless:
  - a) The child's detention or care is required to protect the person or property of others or of the child;
  - b) The child may abscond or be removed from the jurisdiction of the court;
  - c) The child has no parent, guardian, or custodian or other person able to provide supervision and care for him or her and return him or her to the court when required; or
  - d) An order for the child's detention or shelter care has been made by the court pursuant to this article.
3. When interim detention or control of children is permitted, as a matter of public policy, restraints on the freedom of accused children prior to adjudication shall be imposed only when there is probable cause to believe that the accused child did the act of which he or she is accused and there is clear and convincing evidence that the child's freedom should be restrained.
4. Procedure on taking child into custody; detention; bail; detention of child alleged to be unruly. Release to parents; delivery to medical facility, intake officer, or court. A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:
  - a. Forthwith release without bond the child to the child's parents, guardian, or other custodian upon their promise to bring the child before the court when requested by the court;
  - b. Forthwith deliver the child to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.
  - c. Bring the child immediately before the juvenile court or promptly contact a juvenile court intake officer. The intake officer shall determine if the child should be released or detained. Prior to an informal detention hearing, the child shall be placed in detention, if necessary, only in such places as are authorized by Code Section.
  - d. Bring the child who is suspected of committing a delinquent act before the superior court of the county where the delinquent act occurred if the act is an act over which the superior court has exclusive or concurrent jurisdiction. However, pending a commitment hearing or an indictment, the child shall be returned and placed in detention, if necessary, only in such places as are authorized by Code Section.

The person taking a child into custody shall promptly give notice thereof, together with the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court. Any temporary detention or questioning of the child necessary to comply with this

Code section shall conform to the procedures and conditions prescribed by this article and rules of court.

- e. Treatment of unruly child. With respect to a child suspected of being unruly, as defined by juvenile code, or who is in violation of curfew, the person taking such a child into custody shall not exercise custody over the child for a period exceeding twelve (12) hours. After said period, if the juvenile authority will not take the child, he or she will be released to the parent / guardian.

- F Search Incident to Arrest of a Person - When an officer arrests a person, the officer will conduct a thorough search of the subject's person (not strip search), and the area of the subject's immediate control.

When the peace officer is in the process of effecting a lawful search, he may discover or seize any stolen or embezzled property, any item, substance, object, thing, or matter, the possession of which is unlawful, or any item, substance, object, thing, or matter, other than the private papers of any person, which is tangible evidence of the commission of a crime against the laws of this state.

- G Strip Search: Strip searches are prohibited except where conducted by jail personnel.

A strip search is highly intrusive and should be conducted within the limits of legal authority, out of public view, and with due regard for human dignity. Body cavity searches may require special hygienic procedures and qualified medical personnel to conduct the search.

In all cases where a strip search has been conducted, the officer will document the following:

1. The offense the suspect was arrested for.
2. Facts and circumstances that led the officer to believe that the suspect was hiding weapons or contraband on his or her person.
3. The manner in which the search was conducted.
4. The persons who were present during the search.
5. The location where the search occurred.
6. The items that were recovered as a result of the search.

#### H NON-RESIDENTS

If a violator's state of residence is a member of the Non-Resident Violator Compact, the officer may release the person on a copy of the citation and will advise the violator that if the citation is not paid, or if he does not appear in court on the date indicated, the Georgia Department of Public Safety will notify the Department of Public Safety of the violator's home state and the driver's license will be suspended until the fine is paid.

**S.O.P. 8-2 PROCESSING OF JUVENILE OFFENDERS**

**I. PURPOSE**

Establish procedures for the handing of juvenile offenders. (Re: OCGA 15-11)

**II. POLICY**

The Fairburn Police Department is committed to the development and perpetuation of youth and juvenile programs designed to prevent and control juvenile delinquency.

Therefore, it is our policy every component and all personnel share in the youth and juvenile responsibilities, and all members are responsible for support of and/or participation in the youth functions of this city.

The department will conduct all phases of an investigation concerning a crime committed by a juvenile including bringing the case to the Juvenile Court for adjudication and disposition. Juvenile Courts of Georgia have exclusive original jurisdiction over juvenile matters and shall be the sole court for initiating action.

**III. DEFINITIONS**

- A. Delinquent Act: An act designated a crime by the laws of this state or by the laws of another state if the act occurred in that state, under federal laws, or by local ordinance, and the crime is not a juvenile traffic offense as defined in OCGA 15-11-73.
- B. Delinquent Child: Any person under the age of 17 years who is alleged to have committed a delinquent or unruly act; or under the age of 18 years, if alleged to be a "deprived child".
- C. Deprived Child: Any child (under 18) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health or morals; has been placed for care or adoption in violation of law; has been abandoned by his parents or legal custodian; or is without a parent, guardian, or custodian.
- D. Status Offender: A juvenile who is charged with or adjudicated of an offense which would not be a crime if it were committed by an adult; in other words, an act which is only an offense because of the perpetrator's status as a juvenile. Such offenses shall include, but are not limited to, truancy, running away from home, incorrigibility, and unruly behavior.
- E. Unruly Act: An offense that is only applicable to a child (i.e., truancy; curfew violation; runaway; ungovernable; patronization of any bar where alcoholic beverages are sold.) (Allegations of truancy cannot be brought after a child has reached the age of 16, and charges of truancy can only be made by the School's Social Workers.)

**IV. PROCEDURES**

- A. Handling Juvenile Offenders: When confronted with an incident involving a juvenile offender(s), all officers shall use the least coercive alternatives that would be reasonable and consistent with the preservation of public safety and order.

Officers may either handle juvenile offenders informally or formally.

1. Informal handling occurs when an officer manages a particular situation by releasing juvenile with a warning to a parent or guardian. This would require the officer take the child home or have the parent or guardian pick the child up. This would also necessitate the child's parent or guardian being informed of the alleged offense(s).
2. In an informal/non-custodial situation, a release may be made at the incident scene with a written or verbal warning if the nature of the offense or unruliness is of a non-serious nature and if the officer believes custody is unnecessary.
3. In an informal/custodial situation; Officers may take the juvenile into temporary custody for investigative purposes and remove the child from the incident scene. Officers shall, without delay, contact the parent or guardian of the juvenile and instruct them to retrieve their child at the police department. Juvenile will only be detained for a period necessary to complete and await their release to an adult.
4. Officers opting to not pursue formal charges on a juvenile complaint or on petition shall issue a warning to the juvenile and counsel the child and the parents or guardians. Under certain circumstances, officers may choose to pursue criminal actions against the parent or guardian.
5. Formal handling occurs when the juvenile offender is taken into custody and brought before the Juvenile Court and/or an intake officer for further processing and/or the proper decision or disposition of the child. In any incident where any juvenile is detained or taken into custody, the parents or guardians shall be notified as soon as practical and without unreasonable or unnecessary delay.

The decision to handle the juvenile either formally or informally shall be made with the following considerations, and with supervisory approval:

1. Seriousness of the offense (i.e., felony, misdemeanor, status offense, etc.).
2. Prior record of the youth, if any.
3. Age and circumstances of youth.
4. Cooperation and attitude of all parties (youth, parent, guardian, victim, etc.) and the potential of offense being repeated.
5. Degree of wrong intent, violence, premeditation, knowledge of violation, and whether drugs or alcohol is involved.
6. If it is likely the child may be referred to a helping agency or diversionary program.

7. The recommendations of the victim or complainant, if any, may also be considered.

The decision to handle a juvenile offender on an informal or formal basis shall be made within a reasonable amount of time.

When the decision not to take a child into custody is made, Officers will notify the parents or legal guardian of the availability of community-based rehabilitation programs, such as The Office of Behavioral Health Services, the Positive Behavioral Interventions and Support and the Division of Support Services through the Department of Juvenile Justice.

All officers having an authoritative encounter with a juvenile, or a complaint regarding a juvenile, whether the youth is taken into custody, shall document it on an incident report. All juveniles, regardless of their involvement, will only be referred to in narrative reports by their initials, safe and sex. No other identifying information will be inferred.

- B. Physical Detention: The taking of a child into custody is not defined as an arrest, except for determining its validity under the law. (See OCGA 15-11-502). The intent of this section is to provide guidance to agency personnel in making decisions as it pertains to taking juveniles into custody for the protection of the juvenile. At all times, every member of this department will ensure the juvenile's constitutional rights are not violated nor infringed upon and those rights are protected.

An officer taking an alleged delinquent child into custody, with all reasonable speed and without first taking such child elsewhere, shall:

1. Immediately release such a child, without bond, to his or her parent, guardian, or legal custodian upon such a person's promise to bring such child before the court when requested by the court.
2. Immediately deliver such child to a medical facility if such child is believed to suffer from a serious physical condition or illness which requires prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer. Immediately upon being notified by the person taking such child into custody, the juvenile court intake officer shall determine if the child can be administered a detention assessment and if so, shall conduct such assessment and determine if such child should be released remain in protective custody, or be brought before the court, or
3. Bring such child immediately before the juvenile court or promptly contact a juvenile court intake officer shall determine if such child should be released or detained. All determinations and court orders regarding detention shall comply with the requirements of this article and shall be based on an individual detention assessment of such child and his or her circumstances.
4. Notwithstanding subsection (a) of this Code section, a law enforcement officer may detain an alleged delinquent child for a reasonable period sufficient to conduct interrogations and perform routine law enforcement procedures including but not limited to fingerprinting, photographing and the preparation of any necessary records.

5. Prior to a detention hearing, and alleged delinquent child shall be placed in detention, if necessary, only in such places authorized by Code Section 15-11-504.

When a child who is taken into custody has committed an act which would constitute a felony if committed by an adult, the juvenile court, within 48 hours after it learns of such child having been taken into custody, shall notify the prosecuting attorney of the judicial circuit in which the juvenile proceedings are to be instituted.

A child taken into custody shall not be detained or placed in a shelter care prior to the hearing unless:

1. The child's detention or care is required to protect the person or property of others or child.
2. The child may abscond or be removed from the jurisdiction of the court.
3. The child has no parent(s), guardian, or custodian or other person able to provide supervision and care for him/her and return him/her to court when required.
4. An order for his/her detention or shelter care has been made by the court.

#### C. Taking Child into Protective Custody

In accordance with OCGA 15-11-133, A child may be removed from his or her home, without the consent of his or her parents, guardian or legal custodian:

1. Pursuant to an order of the court under this article; or
2. By a law enforcement officer or fully authorized officer of the court if:
  - A child is in imminent danger of abuse or neglect if he or she remains in the home; or
  - A child is a victim of trafficking for labor or sexual servitude under Code Section 16-5-46
3. Once a child has been removed from his or her home, an officer will:
  - Immediately deliver such child to medical facility if such child is believed to suffer from serious physical condition or illness which requires prompt treatment, and, upon delivery shall promptly contact DFACS
  - Bring such child immediately before the juvenile court or promptly contact the juvenile court
  - Promptly give notice to the court and such child's parent, guardian, or legal custodian that such child is in protective custody, together with a statement of the reasons for taking such child into protective custody
  - Ensure the constitutional rights of the Juvenile are not violated.

4. The removal of a child from his or her home by a law enforcement officer making an arrest:

- A law enforcement officer removing a child from his or her home has all the privileges and immunities of a law enforcement officer making an arrest.
- A law enforcement officer shall promptly contact the juvenile court for issuance of a court order once such officer has taken a child into protective custody and delivered such child to a medical facility.
- The juvenile court shall immediately determine if a child should be released, remain in protective custody, or be brought before the court upon being contacted by a law enforcement officer, duly authorized officer of the court, or DFCS that a child has been taken into protective custody.
- Officers must ask the child/juvenile whether he/she has consumed any alcohol or illegal drugs within the past seventy-two (72) hours. If the child/juvenile states “yes” the officer must take him/her to the designated medical facility for a medical clearance; YDC will not accept the child into custody without medical clearance. The answer to the question should be annotated on the officers’ report. Officers will also determine if the juvenile has committed any non-criminal behavior (a status offense) and if so, indicate on the report.

D. Procedures Involving Capital Felonies

An officer taking into custody a juvenile thirteen years or age older who is suspected of a capital felony shall immediately take the child into custody and transport the child to the juvenile/superior court or designated juvenile facility.

The officer shall complete a juvenile complaint form and contact a juvenile intake officer and the district attorney. A juvenile intake officer should be contacted for approval of detention on a capital felony.

If a child, who is thirteen years of age or older, is charged with a capital felony, the superior court and juvenile court have concurrent jurisdiction. The district attorney and the juvenile court jointly make the determination of whether to try the child as an adult. If a child is to be tried as an adult, the district attorney will seek and indictment. Pending adjudication, a juvenile detention facility will be the place of confinement for a child charged with a capital felony. (RE: O.C.G.A.15-11-502)

E. Questioning the Juvenile Offender

Juvenile arrestees must be given the same constitutional protection as adults. If the juvenile is in custody or being questioned as suspect a reasonable effort shall be made to inform a parent, guardian, or attorney regarding the interview or arrest, however; parental or guardian presence is not mandatory to proceed with questioning or interview. All attempts to confer with a parent or guardian will be made, if possible, prior to interviewing a juvenile.

Questioning or interviewing in the booking area is not allowed. Interviews should be conducted in an area with as much privacy as possible and shall be conducted with

not more than two officers present and/or participating in the interview. The interview will be as brief as possible.

The officers involved in the interview and processing of the juvenile offender shall explain, in general, the procedures of this department, the Juvenile Court and the Juvenile Justice System to the juvenile and the parent or guardian, if contacted.

At all times, every member of this department having contact with any juvenile shall be responsible for ensuring all applicable laws and departmental rules for the handling of juveniles are abided by and the juvenile's constitutional rights are not violated nor infringed upon, and those rights are protected.

Non-custodial interviews of juveniles will be conducted with the consideration of the juvenile age, mental state or other factors or influences experienced by the juvenile.

#### F. Transportation of Juvenile(s)

When transporting juveniles, the same radio procedure should be used as when transporting individuals of the opposite sex. At the beginning of the transport, the officer should provide Communications with the location, mileage, and race/sex of juvenile. At the end of the transport, the officer should provide the ending location and mileage. Juveniles will not be transported in the same vehicles as adults.

#### G. Fingerprints and Photographs of Juveniles

According to OCGA 15-11-702, every juvenile charged with an act, which would be a felony if committed by an adult, other than those status offender crime as defined in OCGA 15-11-2, shall be fingerprinted and photographs shall be taken and files separately from those of adults. Fingerprint cards for juvenile arrestees should be completed according to the standard procedures for criminal fingerprint cards as published by GCIC. It is not necessary to specifically identify these cards as "juvenile arrestees."

#### H. Deprived, Abused and Neglected Child

Each county in the state is mandated to have in place a child abuse protocol filed with the Division of Family and Children Services of the Department of Human Resources (DHR), a copy of which shall be furnished to each agency in the county processing the cases of abused children (OCGA 19-15-2.) This protocol should detail the procedures to follow regarding the handling of abused and physically neglected children under the age of 18 years. A copy of the child abuse protocol shall be distributed to all sworn personnel.

During follow up investigations of incidents involving the abuse, neglect, or molestation of children, agency personnel who conduct interviews with the victim will have received specialized training in interviewing children. Officers may choose to contact Children's Healthcare of Atlanta who will provide a specially trained investigator to conduct a forensic interview.

#### I. Required Reports and Juvenile Records

Charges made against a juvenile must be properly detailed on a Juvenile Complaint form. The Fairburn Police Department will use the Juvenile Complaint form located

on the department's report management system. All juveniles will only be referred to by the initials in the narrative of any report, regardless of their involvement.

All complaints, reports and records of juvenile offenders will be marked on the report management system (JusticeOne) with a noted tag of "Juvenile" that the record is that of a juvenile and the contents therein are confidential and not for public or press disclosure.

J. Investigation of Child Abuse

1. Officers becoming involved in a report of Child Abuse or Child Molestation shall contact the following personnel:
  - Shift supervisor
  - Criminal Investigations Division
  - The Department of Family and Children Services
2. An officer may transport the victim to an appropriate medical facility, or accompany the victim in an emergency medical vehicle, if the incident involves injury or sexual abuse, and with the permission of his/her supervisor.
3. An officer may assist in taking the child into protective custody and gaining the assistance of support agencies such as DFCS.
4. A follow-up investigation will be conducted by CID in cooperation with involved social service agencies.
5. Incident reports will not reflect a juvenile as a victim of a crime of child abuse, child molestation or any other similar crimes. The word "Juvenile" or the child's first and last initial will be used in the narrative. A supplemental report will be completed with the words "Confidential Juvenile Information" written at the top of all pages containing identification information on the juvenile victim.

# STANDARD OPERATING PROCEDURE

EFFECTIVE: 05/19/2008

## S.O.P. 8-3 TRANSPORTING AND RESTRAINT OF PRISONERS

### I. PURPOSE

To establish guidelines for the reasonable and safe transportation and restraint of prisoners

### II. POLICY

Transportation and restraint by law enforcement agencies of persons who are in custody is a constant requirement and a frequent activity. Two general time periods are involved. The first is immediately after arrest, when the arrestee is taken to the agency's holding facility for booking, processing and short-term holding. The second concerns the movement of prisoners from the holding facility to a hospital or other medical facility; to court; to attend a funeral or visit a seriously ill relative; and for other reasons. Insert to other facility. It is the policy of this agency to establish uniform procedures that provide adequately for the safety and security of prisoners, transporting officers, and the public during prisoner transport.

### III. DEFINITIONS

- A CONTRABAND – Articles or substances prohibited from the possession of prisoners.
- B HANDICAPPED PRISONER - A prisoner with an anatomical, physiological, or mental impairment that hinders mobility.
- C PRISONER – A persons who has been arrested and taken into custody.
- D PROPER SEARCH – The physical inspection of a prisoner's person, clothing, and effects for weapons or potentially hazardous articles to be used against law enforcement personnel. This search will also have consideration for contraband, such as narcotics, narcotic paraphernalia and implements which may facilitate an escape from custody or confinement. Proper search will be conducted in accordance with federal and state constitutions and statutes and be consistent with this agency's policy on searches.
- E RESTRAINING DEVICES – Equipment such as handcuffs, flex-cuffs, leather restraint belts, leg irons, hobble devices, and maximal restraint tools, used to restrain the movement of the prisoner.
- F SECURITY HAZARD – Any threat to the security of the prisoner, to the facility in which he/she is held, or to others with whom the prisoner may come into contact. Estimations of the degree of security hazard will govern the means of transport, the kinds of restraining devices to be used, and other actions to be taken by agency personnel to provide proper protection for and security of the prisoner.
- G TRANSPORTING OFFICER – an agency employee who is responsible for transporting a prisoner from one point to another.

### IV. TRANSPORTATION OPERATIONS

- A VEHICLE INSPECTION: At the beginning and end of each shift, all vehicles regularly

used for prisoner transport will be inspected by the agency member assigned to that vehicle to determine that all safety devices are in working order and that the interior is free of weapons and contraband.

Prior to placing a prisoner in a vehicle for transport or detention, the officer will inspect the interior for weapons and contraband. An additional inspection will be conducted after the prisoner has been delivered to the detention facility or other destination.

## B RESTRAINING DEVICES

1. Officers will use only those restraining devices for which they have been trained.
2. With few exceptions, all prisoners will be handcuffed, double locked and checked for proper application, with their hands behind their back.
3. When subjects are handcuffed, officers will check for proper fit and ensure that the handcuffs are double locked.
4. Officers, with supervisory approval, may use discretion in restraining persons or using other restraining devices in specific cases such as:
  - a) Obvious state of pregnancy;
  - b) Prisoner has a physical handicap;
  - c) Prisoner has injuries that could be aggravated by standard handcuffing procedures;
  - d) Elderly; and very young persons.
5. All prisoners will be secured with seatbelts, when officer safety allows. No prisoner shall be handcuffed to any part of the police vehicle. When not feasible or safe to seatbelt a prisoner, the reporting officer will document the inability within his/her report.
6. With the approval of a supervisor, leg irons, hobbles or flex-cuffs may be applied to the ankles of a prisoner who violently resists arrest, is an escape risk, is prone to violent behavior, or manifests mental disorders that pose a threat to the prisoner, the transporting officer, or the public.

## C PROTECTIVE HOOD (SPIT HOOD)

1. General Information
  - a) The department issued spit hoods will only be used in situations when an individual is spitting and/or biting or is in the process of spitting and/or biting. Spit hoods will not be used as a standard procedure.
  - b) Spit hoods will not be used on individuals that are bleeding profusely from the mouth and/or nose, have vomited or are vomiting, or are in respiratory distress.

- c) The use of the spit hood will be discontinued immediately if a medical condition arises (i.e. bleeding profusely from the mouth and/or nose, vomiting, respiratory distress, excited delirium, etc) or when the individual's spitting and/or biting behavior ceases.
- d) Officers are prohibited from using any other device or item to manage spitting and/or biting behavior. At no time can anything (i.e. a hand, towel, or clothing) be placed over an individual's mouth.

## 2. Application, Documentation, and Disposal of Protective Hood

- a) The spit hood will be placed over the individual's head, and the elastic on the hood will circle their neck.
- b) The spit hood will not be tightened or held against the individual's face but should have adequate ventilation so the restrained person can breathe normally.
- c) The individual will be checked by medical personnel if a medical condition arises during or after application.
- d) Individuals who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head, and clothing, prior to the application of a spit hood.
- e) Officers shall provide assistance during the movement of individuals with spit hoods due to the potential for impaired or distorted vision on the part of the individual.
- f) Individuals with a spit hood shall be continually monitored, with documentation until the spit hood is removed.
- g) Once removed, the spit hood will be discarded in a trash container, and a replacement will be obtained as soon as feasible.
- h) The use of the spit hood shall be documented in an incident or supplemental report.

## V. TRANSPORT

- A Prior to transport, the arresting officer will thoroughly search all prisoners for any weapons, tools of escape, or contraband.
- B The transporting officer, if different from the arresting officer, will conduct a second search incident to arrest for the purpose of seizing weapons, contraband or evidence of the crime before placing the prisoner in the patrol vehicle.
- C If the transporting officer and prisoner are of the opposite sex, the transporting officer will conduct a search for the purpose of seizing any weapons, tools of escape or contraband. This search should be observed, if possible, by a witness or in front of a body worn camera and/or vehicle dash camera.
- D Any search will be documented by the transporting officer.

E Prior to transporting a prisoner, the transporting officer shall notify the dispatcher:

1. Identity of the prisoner;
2. Arrest location and destination;
3. Vehicle odometer mileage at beginning and end of transport when transporting juveniles or person(s) of the opposite sex.

F Prisoners shall be transported in the following manner:

1. If the transport vehicle is equipped with a safety barrier, the prisoner shall be placed in the rear, right-side seat. The transport officer(s) shall be positioned in the front seat.
2. If the transport vehicle is equipped with a safety barrier, and two prisoners are being transported, then two officers shall make the transport where feasible. The prisoners shall be placed in the rear seat. The transport officer shall be positioned in the front seat.
3. Up to three prisoners may be transported in a vehicle equipped with a safety barrier. The prisoners shall be placed in the rear seat.
4. A prisoner may be transported in a vehicle not equipped with a safety barrier. However, two officers must make the transport. One officer shall operate the vehicle while the second officer is seated in the rear seat with the prisoner seated and properly seat belted in the rear seat on the officer's none weapon side.
5. All prisoners being transported shall wear properly fastened seat belts, when officer safety permits.
6. Prisoners shall not be transported in a reclined position.
7. Any wheelchairs, crutches, prosthetic devices, and medication shall be transported with, but not in the possession of, the prisoner.
8. Prisoners shall not be left unattended while being transported.
9. Unless approved by a supervisor, no stops will be made while transporting a prisoner.
10. A transporting officer shall not respond to the need for law enforcement services or back-up unless the risk to other citizens or law enforcement officers is both clear and serious and the risk to the prisoner(s) is minimal.
11. Prisoners of the opposite sex shall not be transported in the same vehicle unless arrested at the same time, extraordinary circumstances exist, and only when approved by a supervisor.
12. If a prisoner is to be transported to court or any other facility, and the prisoner is believed to be a security hazard; the transporting officer(s) shall inform the receiving personnel so they may prepare to accept custody of the prisoner.

## VI. SPECIAL TRANSPORT SITUATIONS

- A If a prisoner becomes sick or injured incidental to arrest, the transporting officer, when possible, shall summon emergency medical support to examine the prisoner prior to transport.
- B If emergency hospital treatment is necessary, the prisoner and at least one officer shall be transported by the rescue to the hospital. The officer shall remain with the prisoner (unless prevented by emergency circumstances or treatment needs) until the hospital personnel release the prisoner or until appropriate security can be arranged.
- C If emergency hospital treatment is not necessary, and a reasonable request is made by the prisoner to go to the hospital, the prisoner shall be transported in an agency vehicle.
- D Prisoners with physical handicaps may be transported in agency vehicles. All reasonable precautions shall be taken by the transporting officer to ensure the security and reasonable comfort of the prisoner, without compromising the safety of the transporting officer(s).
- E Appropriate measures for the security and control of prisoners in medical facilities shall be taken. Whenever an officer transports a prisoner, or is transported with a prisoner, to a medical facility, the officer shall:
  - 1. Maintain a constant view of the prisoner;
  - 2. Ensure that proper restraints are applied to the prisoner until the medical staff needs them removed for medical treatment. Once treatment is completed, proper restraints shall be reapplied;
  - 3. Guard against any injury to the officer and or medical staff;
  - 4. If required to guard the prisoner, and when possible, rotate guarding assignments at regular intervals to avoid complacency;
  - 5. Ensure that the prisoner does not have contact with visitors;
  - 6. Notify hospital security, if available, and the law enforcement agency within the jurisdiction of the medical facility of the presence of a prisoner within the hospital;
  - 7. If the prisoner is admitted to the medical facility, and cannot be indicted or issued a summons, the shift commander shall be notified to arrange for twenty-four (24) hour guard coverage;
  - 8. Upon the prisoner's release from the medical facility, and prior to transport, the prisoner shall be thoroughly searched; and
  - 9. Upon the prisoner's release from the medical facility, the transporting officer shall ensure that all medical records and instructions for future treatment are in the prisoner's possession and are provided to the detention facility.
- F Whenever a prisoner is to be transported and has been involved in the following

types of incidents special safety considerations shall be adhered to:

1. Prisoner was involved in a violent struggle during apprehension,
2. Prisoner was subjected to the use of a chemical agent, Taser, neck restraint hold, multiple body weight control, or impact strikes to the body,
3. Prisoner is highly intoxicated on either alcohol or drugs or a combination.
4. Prisoner is secured by maximal restraints, four-point restraints, TARP devices, or a hobble tool, or
5. Prisoners exhibit difficulty in breathing, the transporting officers shall:
  - a) Ensure that the prisoner remains in a seated, upright position.
  - b) One officer shall maintain constant visual and audible observation of the prisoner.
  - c) If there is any indication that the prisoner is in medical distress the officer(s) shall administer emergency medical attention consistent with his/her level of training and shall immediately summon emergency medical support, and shall advise the detention staff accepting the prisoner of all of the above circumstances

G. Under certain circumstances, an officer may be required to transport the arrested person to Police Headquarters in order to complete documentation prior to transport to the jail/prison. The department does not recognize, nor have holding cells, however, is outfitted with a secure bench, in an open area, that is utilized for prolonged custody while required paperwork (arrest tracking sheets, arrest warrants, incident report) is completed. Under those circumstances, the following will be taken:

1. All offenders will have one ankle secured to the bench in leg irons
2. All offenders will have both wrists secured to the bench, with no arm free for manipulation. Doing so relieves the offender from a prolonged time of having his/her arms handcuffed behind the back.
3. A sworn officer must be within earshot contact of the offender; sworn officer cannot be outside.
4. The sworn officer tasked with monitoring of the offender will conduct routine checks for bathroom use, depending upon the length of time in custody.

Officers assigned to uniform field duty will receive annual policy training on transporting detainees.

**S.O.P. 8-4 CONFESSIONS/ADMISSIONS AND INTERROGATIONS**

**I. INTRODUCTION**

To many authorities, interrogation is the most important part of an arrest/investigation since it offers the possibility of determining, by the statement of the suspects themselves, whether they committed a crime. The techniques to be utilized to interrogate suspects are outside the scope of this S.O.P. The purpose of these procedures is to ensure that confessions are obtained voluntarily. This will allow such statements to be used at trial. Any involuntary statement, regardless of whether it is true or false, is non-admissible in court.

**II. VOLUNTARINESS**

No attempt will be made to obtain a statement by force, threats, or promises. Whether an accused person or a suspect will cooperate is left entirely up to that individual. If he indicates at any time prior to or during questioning that he wishes to remain silent, or that he wants an attorney present, all interrogation must cease. Any confession induced by the officer "by the slightest hope of benefit or remotest fear of injury" will not be admissible in court.

**III. DETERMINATION THEREOF**

The court uses two general standards in determining voluntariness. These standards are "inherently coercive" or not the result of "free and unconstrained choice." Failure to pass either of these standards renders a statement inadmissible.

A Elements of an Inherent Coercion include, but are not limited to:

1. Physical abuse or the threat of such abuse;
2. Extended periods of interrogation without break or access to the outside;
3. Unwillingness to permit the accused access to an attorney, family or friends, especially when an individual has made some effort to make contact with such persons;
4. Severe physical conditions under which the accused is interrogated.

B A statement may be ruled inadmissible under the Free and Unconstrained Choice Doctrine when the interrogation practices used overpower the accused's ability to act in a self-determined matter. Circumstances and actions which may violate this doctrine include, but are not limited to:

1. Failure to notify the accused of the charge(s);
2. Age, intelligence, experience of the accused;
3. Physical condition of the accused;
4. Overt force, physical abuse, use of weapons, number of officers present;
5. Threats and psychological pressure;

6. Deprivations of food, sleep, medication;
7. Isolation, incommunicado interrogations;
8. Duration of questioning;
9. Failure to advise the accused of his rights;
10. Promises of leniency or other inducements;

The presence of any one or more of these factors will not necessarily make a statement involuntary. Rather the Court will examine the "totality of circumstances" at the time the statement was obtained.

#### **IV. MIRANDA WARNINGS AND WAIVER**

Officer's will inform all suspects in custody of their Miranda Rights before asking any questions pertaining to a crime that they have/haven't been charged with.

The language for the proper warning of rights and waiver contained on the Agency's Waiver of Rights Form is as follows:

##### **A Warning**

1. That I have the right to remain silent and not make any statements at all nor incriminate myself in any manner whatsoever.
2. That anything I say can and will be used against me in a court or courts of law for the offense or offenses concerning which this statement is herein made.
3. That I have the right to talk to a lawyer and have him present with me while I am being questioned.
4. That if I am unable to hire a lawyer I can request and receive appointment of a lawyer by the proper authority, without cost or charge to me, to be present and advise me before and during this statement.
5. That I can decide at any time to exercise these rights and not answer any questions or make any statements.

##### **B Waiver**

1. I understand each of the above rights that have been explained to me.
2. Having the rights in mind, I wish to waive these rights and talk voluntarily of my own free will and accord.

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.

##### **C Request for a Lawyer by an Accused**

1. If, at any point, the accused request to speak with an attorney, all questioning must cease. Questioning by police officers related to the offense(s) may not be resumed unless the accused initiates the questioning by requesting to speak with the officer. The officer must fully document any offer by the accused to speak with officers after invoking the right to counsel. Only routine, administrative questions not related to the offense(s) may be asked after the accused has invoked his/her right to counsel.
2. If the accused says anything that suggests or implies that the accused wants to speak to a lawyer, questioning concerning the offense must cease. 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 he/she does 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 clearly indicates that he/she does not want a lawyer will questioning concerning the crime continue.

- D Identification of Investigator - In addition to being given the Miranda Warnings, the accused shall be advised of the names and official identity of the interrogating investigator(s) and the nature of the inquiry.
- E Interpreters - When there is doubt of a person's ability to use and understand the English language, and an officer is not qualified in the principle language of the person, the officer will contact his/her supervisor for assistance. The supervisor will be responsible for obtaining a qualified interpreter. Any confession made without an interpreter may result in the statement being rendered inadmissible in court. This policy shall also apply to those persons who are hearing impaired.

For hearing impaired assistance, the supervisor shall contact the Georgia Department of Human Services, or Georgia Commission for the Deaf or Hard of Hearing.

#### F Documentation of Statement by Accused

1. Whenever possible, any statement made by the accused should be recorded on either audio or video tape. The recording should include the accused's waiver of rights at the beginning of the interview.
2. If is not possible to record the accused's statement, the officer must fully document the content of the statement.
3. Whenever possible, the accused should be asked to sign any written statement in which a confession or admission of guilt is contained.

**STANDARD OPERATING PROCEDURES**  
**EFFECTIVE: 05/19/2008**

**S.O.P. 8-5 PREVENTION OF BLOOD BORNE DISEASES**

**I. INTRODUCTION**

It is the purpose of this policy to provide officers with guidelines for preventing the contraction of the AIDS virus, hepatitis B and other blood borne pathogens.

It is the responsibility of the Agency to take all reasonable measures to allow its members to perform their duties in a safe and effective manner. The safe performance of daily operations is threatened by the AIDS and hepatitis B viruses that can be contracted through exposure to infected blood and several types of bodily secretions. Therefore, it is the policy of this agency to continuously provide employees with information and education on prevention of these diseases, provide up-to-date safety equipment and procedures that will minimize their risks of exposure and to institute post-exposure reporting, evaluation and treatment for all members exposed to these diseases.

**II. DEFINITIONS**

- A BODILY FLUIDS: Blood, semen and vaginal fluids or other secretions that might contain these fluids such as saliva, vomit, urine or feces.
- B PERSONAL PROTECTIVE EQUIPMENT: Specialized clothing or equipment worn by members for protection against the hazards of infection. This does not include standard issue uniforms and work clothes without special protective qualities.
- C UNIVERSAL PRECAUTIONS: Procedures promulgated by the Centers for Disease Control (CDC) that emphasize precautions based on the assumption that all blood and bodily fluids are potentially infectious of the AIDS (HIV) and hepatitis B (HBV) viruses.

**III. PROCEDURES**

- A General Disease Prevention Guidelines
  - 1. The Agency's exposure control plan shall provide an overall strategy for limiting exposure to HIV viruses and responding to potential exposure incidents. The plan is available for review by all members by the request of their immediate supervisor.
  - 2. The Agency subscribes to the principles and practices for prevention of HIV and HBV exposure as detailed in the "universal precautions" prescribed by the CDC and the federal regulations of the Occupational Safety and Health Administration. Where otherwise not detailed in this policy, officers shall be guided by these practices and procedures.
- B Workplace Controls and Personal Protective Equipment
  - 1. In order to minimize potential exposure, officers should assume that all persons are potential carriers of HIV or HBV.

2. When appropriate protective equipment is available, no member shall refuse to arrest or otherwise physically handle any person who may carry the HIV or HBV virus.
3. Members shall use protective gear under all appropriate circumstances unless the member can demonstrate that in a specific instance, its use would have prevented the effective delivery of health care or public safety services or would have imposed an increased hazard to his safety or the safety of another co-worker.
4. All such instances shall be reported by the member and shall be investigated and appropriately documented to determine if changes could be instituted to prevent similar occurrences in the future.
5. Disposable gloves shall be worn when handling any persons, clothing or equipment with bodily fluids on them.
6. Masks in combination with eye protection devices, such as goggles or glasses with solid side shields or chin-length face shields, shall be worn whenever splashes, spray, spatter or droplets of potentially infectious materials may be generated and eye, nose or mouth contamination can be reasonably anticipated.
7. Gowns, aprons, lab coats, clinic jackets or other outer garments shall be worn as determined by the degree of exposure anticipated.
8. Plastic mouthpieces or other authorized barrier/resuscitation devices shall be used whenever an officer performs CPR or mouth-to-mouth resuscitation.
9. All sharp instruments such as knives, scalpels and needles shall be handled with extraordinary care and should be considered contaminated items.
10. Leather gloves or their protective equivalent shall be worn when searching persons or places or dealing in environments, such as accident scenes, where sharp objects and bodily fluids may be encountered.
11. Searches of automobiles or other places should be conducted using a flashlight, mirror or other devices where appropriate. Subsequent to a cautious frisk of outer garments, suspects should be required to empty their pockets or purses and to remove all sharp objects from their person.
12. Needles shall not be recapped, bent, broken, removed from a disposable syringe or otherwise manipulated by hand.
13. Needles shall be placed in Agency provided, puncture-resistant, leak proof containers that are marked as bio-hazardous when collected for evidence, disposal or transportation purposes.
14. Officers will not smoke, eat, drink or apply makeup around bodily fluid spills.
15. Any evidence contaminated with bodily fluids shall be completely dried, double bagged and marked to identify potential or known communicable disease contamination.

## C Custody and Transportation of Prisoners

1. Officers shall not put their fingers in or near any person's mouth.
2. Individuals with bodily fluids on their persons shall be transported in separate vehicles from other persons unless arrested at the same time. The individual may be required to wear a suitable protective covering if he is bleeding or otherwise emitting bodily fluids.
3. Officers have an obligation to notify relevant support personnel during a transfer of custody when the suspect has bodily fluids present on his person or has stated that he has a communicable disease.
4. Officers shall document on the appropriate arrest or incident form when a suspect taken into custody is thought to have or has stated that he/she has a communicable disease.

#### D Housekeeping

1. Supervisors and their employees are responsible for the maintenance of a clean and sanitary workplace and shall conduct periodic inspections to ensure that these conditions are maintained
2. All equipment and environmental and work surfaces must be cleaned and decontaminated after contact with blood and other potentially infectious materials as provided in this policy.
3. Any protective coverings used in laboratory, evidence custody or enforcement operations for covering surfaces or equipment shall be removed or replaced as soon as possible following actual or possible contamination.
4. Bins, pails and similar receptacles used to hold actual or potentially contaminated items shall be labeled as bio-hazardous, decontaminated as soon as feasible following contamination.
5. Care should be used when handling broken and potentially contaminated glassware, needles or other sharp instruments and should not be retrieved by hand when other retrieval means are available.
6. Officers shall remove clothing that has been contaminated with bodily fluids as soon as practical and with as little handling as possible. Any contacted skin area shall be cleansed in the prescribed fashion.
7. Contaminated laundry and personal protective equipment shall be bagged or containerized at the location where it is used in Agency approved leak proof containers but shall not be sorted, rinsed or cleaned at that location.
8. Agency personnel working within this Agency's crime laboratory shall adhere to policy and procedures contained herein but shall refer to and also adhere to special safety procedures established for the laboratory workplace.

#### E Disinfection

1. Any unprotected skin surfaces that come into contact with bodily fluids shall be thoroughly washed as soon as possible with hot running water and soap

for at least fifteen (15) seconds before rinsing and drying.

2. Alcohol or antiseptic may be used where soap and water are unavailable.
3. Disposable gloves should be rinsed before removal and hands and forearms should then be washed.
4. Skin surfaces shall be washed, and mucous membranes flushed as soon as feasible following the removal of any personal protective equipment.
5. Hand lotion should be applied after disinfection to prevent chapping and to seal cracks and cuts on the skin.
6. All open cuts and abrasions shall be covered with waterproof bandages before reporting to duty.
7. Disinfection procedures shall be initiated whenever a person with bodily fluids on his person is transported in an Agency vehicle.
8. A supervisor shall be notified and the vehicle cleaned as soon as possible.
9. Affected vehicles shall be immediately disinfected before being put back into service.
10. Service personnel shall remove any excess bodily fluids from the vehicle with an absorbent cloth, paying special attention to any cracks, crevices or seams that may be holding fluids.
11. The affected areas should be disinfected using hot water and detergent or alcohol and allowed to air dry.
12. Non-disposable equipment and areas upon which bodily fluids have been spilled shall be disinfected as follows:
  - a) Any excess bodily fluids should first be wiped up with approved disposable absorbent materials.
  - b) A freshly prepared solution of one-part bleach to ten (10) parts water or a fungicidal / bactericidal disinfectant shall be used to clean the area or equipment.

## F Supplies

1. Supervisors are responsible for continuously maintaining an adequate supply of disease control supplies in a convenient location for all affected personnel in their unit. This includes, but is not limited to, ensuring that:
  - a) Personal protective equipment in appropriate sizes, quantities and location are available;
  - b) Hypoallergenic gloves and other materials are available for those who are allergic to materials normally provided, and cleaning, laundering and disposal, as well as repair or replacement of these and other items is provided; and

- c) First aid supplies and disinfecting materials are readily available at all times.

## G Vaccination, Exposure, Evaluation and Treatment

1. All members of this Agency who have been determined to be at risk for occupational exposure to the hepatitis B virus shall be provided with the opportunity to take the HBV vaccination series at no cost within 10 working days of assignment to an occupationally exposed duty. The vaccination shall be provided if desired only after the member has received required Agency training, has not previously received the vaccination series and only if not contraindicated for medical reasons.
2. Any person who has unprotected physical contact with blood or other bodily fluids of another person while in the line of duty shall be considered to have been potentially exposed to HBV and/or HIV.
3. In cases of exposure, a supervisor shall be contacted who shall complete a First Injury Report form and shall take appropriate steps to document the means and circumstances under which the exposure occurred.
4. Immediately after exposure, the officer shall proceed to the designated health care facility for tests for evidence of infection and treatment of any injuries.
5. Any person responsible for potentially exposing a member of the Agency to a communicable disease shall be encouraged to undergo testing to determine if the person has a communicable disease.
  - a) The person shall be provided with a copy of the test results and a copy shall be provided to the exposed Agency member. The member shall be informed of applicable state laws and regulations concerning the disclosure of the identity and infectious status of the source individual.
  - b) Criminal charges may be sought against any person who intentionally exposes a member of the Agency to a communicable disease.
6. Officers who test positive for HIV or HBV may continue working as long as they maintain acceptable work performance and do not pose a safety and health threat to themselves, the public or other members of the Agency.
  - a) The Agency shall make all decisions concerning the employee's work status solely on the medical opinions and advice of the Agency's health care officials.
  - b) The Agency may require an employee to be examined by the Agency care officials to determine if he/she is able to perform his/her duties without hazard to him/her self or others.
7. All members of the Agency shall treat employees who have contracted a communicable disease fairly, courteously and with dignity.

## **STANDARD OPERATING PROCEDURES**

**EFFECTIVE: 05/19/2008**

### **S.O.P. 8-6 DIPLOMATIC AND CONSULAR IMMUNITY REQUESTS FOR ASYLUM /DEFECTION**

#### **I. INTRODUCTION**

Federal and state laws provide that under certain circumstances, individuals may be immune from arrest. With the limited exception of certain diplomatic officials, immunity from arrest does not preclude prosecution of the individual for the offense for which immunity from arrest is claimed. In all cases in which immunity is claimed, an officer has the right to detain the person long enough to verify that the person is entitled to the immunity claimed. This can usually be done by examination of official identification cards. The officer may also request that the dispatcher contact the appropriate government agency to verify the individual's status.

In all cases in which a person asserts immunity from arrest, the detaining officer will immediately notify the on-duty supervisor.

Under no circumstances will an officer permit a person who is entitled to immunity from arrest to continue to operate a motor vehicle or boat if the officer has probable cause to believe that the person is under the influence of alcohol or drugs.

#### **DIPLOMATIC AND CONSULAR IMMUNITY**

Under Federal law, diplomatic and consular officers, members of their official staff, officials of international organizations such as the United Nations and family members of such officers will be accorded their respective privileges, rights and immunities as provided by the Treaties and laws of the United States.

All officers will treat these officials with the utmost courtesy and respect that befits their distinguished position if, for no other reason, that the treatment which foreign diplomatic and consular officials receive from this agency can directly affect how U.S. diplomatic and consular officials are treated in the foreign country.

It is a well-established principle of international law that persons enjoying such privileges and immunities are to respect local laws and regulations. Any incident involving persons claiming diplomatic or consular immunity or a family member of a diplomatic or consular official will be reported immediately through the chain of command. It is the policy of this agency to report any such incident to the U.S. Department of State for such diplomatic action as may be appropriate.

Because diplomatic and consular immunity may be waived or withdrawn by the foreign government, it can never be ascertained with certainty at the investigative stage that a person asserting immunity will continue to enjoy that immunity when his or her government is confronted with allegations of criminal conduct or that the accused will not later become subject to prosecution. Therefore, all serious incidents, (i.e., felonies, DUI's and misdemeanors involving death or serious bodily harm) involving persons with diplomatic or consular immunity will be referred to the District Attorney for prosecution.

Where, however, a person entitled to diplomatic or consular immunity presents a clear, present and actual danger to himself, herself, or others or it is apparent that a serious crime may be committed, a law enforcement officer may take such reasonable actions to protect public safety and the person entitled to immunity or to halt the illegal activity. This naturally includes the

power to defend oneself from personal harm. In all such cases a supervisor must be called, and the United States Department of State contacted immediately.

## **II. DIPLOMATIC IMMUNITY**

- A Under Federal law, heads of a mission (usually called the Embassy) of a foreign government to the United States and the United Nations Headquarters in New York, members of the diplomatic, administrative and technical staff of the mission and members of their family household are "not liable to any form of arrest or detention." Generally, this does not extend to United States citizens who are employed by an embassy.
- B Persons entitled to diplomatic immunity are entitled, by law, to be treated with "due respect" and "appropriate steps (must be taken) to prevent any attack on his person, freedom, or dignity."
- C Under normal circumstances, this means that a person who establishes that he or she is entitled to diplomatic immunity, cannot be arrested or tried for any criminal offense unless such immunity is expressly waived by the foreign government. As indicated above, immunity continues only as long as the person is accredited as such to the United States.

## **III. CONSULAR IMMUNITY**

- A In addition to members of their embassy staff, foreign governments may with the approval of the United States, establish consular offices to provide consular services to their foreign nationals in the United States and to represent them in trade matters. Under Georgia Law, officials of the Atlanta office of the Coordination Council for North American Affairs of the Republic of China (also known as Taiwan) are entitled to the same protections and immunities as career consuls.

There are two types of consular officials, career consuls and honorary consuls.

- 1. Career consuls are normally full-time employees of the foreign government.
  - 2. Honorary consuls may be a citizen of the foreign government who has residency in the United States or a United States citizen.
- B In the absence of a specific treaty, consular officials are not entitled to diplomatic immunity, but they are entitled to consular immunity which is more limited than diplomatic immunity.

Career consular officers entitled to consular immunity

- 1. Included are consul-generals, deputy consul-generals, consuls, vice consuls and consular agents who are official representatives of a foreign government accredited to the United States.
  - 2. "Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority." A "grave crime" is a felony offense that endangers the public safety and a warrant is required.
  - 3. Career consular officers are subject to criminal prosecution by the courts of

this State except for acts performed which are within the scope of consular duties.

- C Honorary consuls - Honorary consuls are not entitled to immunity from arrest or detention. They are subject to the civil or criminal jurisdiction of the courts of this State unless they were performing official acts in the exercise of their consular function.
- D Family members - Family members of consular officers are not entitled to immunity but will be treated with appropriate courtesy and respect. Incidents involving family members of consular officials will be reported through channels the same as for consular officials.
- E Consulates and Consular Premises
  - 1. Consulates and consular premises are inviolable. This means that law enforcement and other government officials cannot enter that portion of the consular premises "which is used exclusively for the work of the consular post except with the consent of the consular post, or his designee or the head of the diplomatic mission of the sending state." Consulates are required to be clearly marked. If, in the case of an honorary consul, the consular premises are within a building or office used for other purposes, only that portion of the structure which is clearly marked cannot be entered.
  - 2. In the event of a fire or other emergency, the consent of head of the consular post is assumed and officials may enter for the purpose of dealing with the emergency. Any emergency entry into a consulate will be immediately reported to this Agency's Chief of Police, the District Attorney and the U.S. State Department by telephone.
  - 3. Except in an actual emergency, the decision to enter a consulate for law enforcement purposes, without the consent of the head of the consular post will be made only by this Agency's Chief of Police after consultation with the District Attorney and the United States State Department. The Agency will strictly abide by the guidance received from the State Department.
  - 4. A violation of this section may result in the prosecution of the officer under 18 U.S.C. § 112.
- F Diplomatic and Consular Pouches
  - 1. A diplomatic or consular pouch is a container (of any size) used to transport official communications (including equipment needed for communication). It is required to be clearly marked as such.
  - 2. A diplomatic or consular pouch will not be opened by any officer under any circumstance. If an officer has probable cause to believe that a diplomatic or consular pouch is being used in furtherance of crime, all of the facts will be reported to his or her supervisor who will contact the U.S. State Department Bureau of Diplomatic Security.
- G Procedures

1. In all cases where a person who is known to be entitled to or asserts diplomatic or consular immunity, the person will be treated with the courtesy and respect that befits their distinguished position and a supervisor contacted immediately. It is the duty of the supervisor to contact the United States State Department immediately to verify the person's status and seek official guidance.
2. Career consular officials may only be arrested for a felony pursuant to a warrant issued by judge.
3. Traffic violations
  - a) Under international law, the issuance of a traffic citation does not constitute an arrest or detention. Therefore, the officer on the scene may, after ascertaining that the official has the proper credentials, based on the nature of the offense issue a warning or citation.
  - b) A copy of the citation along with a report of the incident will be forwarded through the chain of command to the United States Department of State, Washington D.C. 20520.
4. Traffic Accidents
  - a) If a motor vehicle involved in an accident (1) was operated by a person who has verified diplomatic or consular status or (2) bears diplomatic or consular motor vehicle license plates issued by the United States Department of State, a copy of the accident report, together with a copy of any traffic citations issued to the person entitled to diplomatic or consular status and the report of the incident will be forwarded through the chain of command to the U.S. Department of State.
  - b) Vehicles issued Department of State license plates are required to be covered by liability insurance.
5. Driving Under the Influence and other Offenses Where the Safety of the Official or Public is Involved
  - a) The primary consideration in DUI cases and other more serious offenses is to ensure that the official is not a danger to them self or the public. At best these are sensitive situations and the officer must treat the official with respect and courtesy. If it is necessary to restrain the official to prevent harm to himself, herself, or others (including the officer).
  - b) If the supervisor determines that a diplomatic or consular official is a danger to themselves or others, the supervisor may direct that:
    - (1) The official be taken to the station or another location where he/she may recover sufficiently to drive safely;
    - (2) The official be provided access to a telephone to call someone to drive them home;

(3) Transportation will be called for the official;

(4) The official be taken home.

- c) In cases involving a motor vehicle or boat operated by a person asserting diplomatic or consular immunity who the officer believes to be intoxicated, the officer may ask the individual to perform field sobriety tests the same as any other driver while awaiting verification of the status claimed.
- d) If the incident involves a person entitled to diplomatic immunity, the supervisor will contact the United States Department of State, Office of Protocol by telephone immediately and advise them of the situation. A full written report will be submitted through channels to the U.S. Department of State.
- e) For consular officials, a full report will be submitted, through channels, to the United States Department of State, Office of Protocol.

6. Protection of Officials from Harm to Themselves or Others; Preventing Further Criminal Activity

- a) If a person asserting or entitled to diplomatic or consular immunity presents a clear, present and actual danger to himself, herself, or others, an officer may take such reasonable actions to protect public safety and the person entitled to immunity or to prevent further illegal activity.
- b) If it is necessary to physically restrain a diplomatic or consular official (i.e. handcuff), the officer will, after taking appropriate action, explain to the official why he or she is being restrained and that they will be released from restraint as soon as they no longer are a danger to themselves or others.
- c) The responding supervisor will immediately contact the U.S. State Department, in the event a diplomatic or consular official must be restrained. The supervisor will also report the incident through the department chain of command and notify the District Attorney.
- d) Use of excessive force or use of force where there was no clear, present and actual danger to the person entitled to immunity or others may result in the prosecution of the officer under Federal law.

7. Possession of Contraband

- a) If a person asserting diplomatic or consular immunity, is in possession of contraband (i.e., controlled substances), the officer may seize the contraband.
- b) Any such seizure will be immediately reported to a supervisor. The supervisor will contact the District Attorney and the United States Department of State, Office of Protocol by telephone immediately and advise them of the situation. A full written report will be submitted to the U.S. Department of State.

## 8. Verification of Status

a) Persons claiming diplomatic or consular immunity are required to produce satisfactory evidence of their official status.

(1) The United States Department of State issues identification cards to diplomatic officials, consular agents and officials of international organizations accredited to the United States. On the back of these cards are an explanation of the immunity to which the official is entitled and telephone numbers which may be called to verify status.

(2) Honorary consuls may be issued identification cards by the Georgia Secretary of State.

(3) The United States Department of State issues motor vehicle operator permits (driver's licenses) to persons entitled to diplomatic or consular immunity and functions similarly to the Georgia Department of Public Safety with regard to these licenses. Driver's licenses issued by the Department of State will not be relied on as conclusive proof of the immunity of the bearer.

(4) The United States Department of State issues motor vehicle plates (license tags) for vehicle operated by persons entitled to diplomatic and consular immunity.

(a) These tags are red white and blue in color. The status of the vehicle is indicated by a letter code:  
D = diplomatic vehicle  
S = diplomatic staff vehicle  
C = consular vehicle

(b) Information regarding the vehicle and registered owner is available through NLET the same as out-of-state license plates. Use State code "US".

(c) In addition, the Georgia Department of Revenue may issue consular license plates for vehicles registered and operated in Georgia by career or honorary consuls.

(d) License plates issued by the Department of State or the State of Georgia will not be relied on as conclusive proof of the immunity of the bearer but only as an indication that the vehicle may be operated by someone entitled to diplomatic or consular immunity.

(5) In any situation in which an official asserting immunity cannot produce satisfactory evidence thereof, or the officer wishes to confirm the status claimed, the United States Department of State should be contacted:

- (a) Regular Hours:
  - Diplomats & families: 202-647-4510
  - Diplomatic employees & families: 202-647-1405
  - Consular personnel & families: 202-647-1404
  - International Organizations: 202-647-1402

(b) After hours: All: 202-647-7277

- (6) Verification of Department of State Drivers Licenses and motor vehicle registrations may be obtained through NLET (State Code is "US").

H Official Guests of the United States - Official Guests of the United States are foreign nationals who are in the United States and are so designated by the U.S. Secretary of State.

Except at large events such as the Olympics, persons designated as Official Guests of the United States may be accompanied by a representative of the U.S. State Department.

1. Official Guests can include:
  - a) Foreign government officials;
  - b) Olympic athletes, coaches and trainers;
  - c) Members of the International Olympic Committee accredited to the Games
  - d) Members of national Olympic committees accredited to the games;
  - e) Members of international sports federations accredited to the games;
  - f) Immediate family members of official guests; and
  - g) Foreign officials accredited to the games.
2. Official Guests do not have immunity but will be treated with courtesy and respect. A superior officer should be contacted immediately for any incident involving an Official Guest. The supervisor will, in turn, contact the District Attorney's office or, in the case of misdemeanors, the Solicitor of State Court.
3. The department will submit a report of any incident in which a person designated as an Official Guest of the United States is involved (either as an accused, victim or witness) through official channels to the U.S. Department of State.
4. Verification of an individual's status as an Official Guest may be obtained from the U.S. Department of State.

I Diplomats, Consuls or Official Guests as Victims or Witnesses to a Crime

1. If a diplomat, consul or official guest of the United States is a victim of a crime, the officer will immediately contact a supervisor.

2. It is the responsibility of the supervisor to immediately contact:
  - a) In the case of diplomats and official guests, the regional office of the F.B.I. and the U.S. State Department command post by phone at 202-663-0812. The F.B.I. has primary jurisdiction over offenses committed against diplomats and official guests. The District Attorney should also be contacted.
  - b) In the case of a consul, the District Attorney and the U.S. State Department. If the consul is a career consul, the F.B.I. should also be contacted.
3. If a diplomat, career consul or official guest is a witness to a crime, a supervisor will be notified.
  - a) A person entitled to diplomatic or consular immunity may not be detained as a witness but the officer should promptly obtain the witness's name and a telephone number where the official may be contacted later.
  - b) The supervisor will notify the District Attorney in writing as soon as possible that one of the witnesses is a diplomat, consul or official guest. Any interviews with the witness will be coordinated through the District Attorney's office.
4. By law, diplomats and consuls can appear as a witness only with the prior consent of their government.

J Arrests of Foreign Nationals - Citizens of other nations who reside in or are visiting Georgia are subject to Georgia law. Except as indicated below, foreign nationals who are arrested will be treated in the same manner as U.S. citizens.

1. If the foreign national who is arrested is in possession of a passport, visa, border crossing card, resident alien card or alien registration card, the arresting officer shall make a photostatic copy of the documents and attach them to the arrest/booking report.
2. By law, if a citizen of the following countries is arrested, the supervisor or his/her designee will notify the nearest consulate, or the embassy of the arrest and the accused will be told that his or her embassy or consulate has been contacted. Notification will be made at the time the accused is booked.

*Albania, Antigua, Armenia, Azerbaijan, Bahamas, Barbados, Belarus, Belize, Brunei, Bulgaria, Peoples Republic of China, Republic of (Taiwan), Costa Rica, Cyprus, Czech Republic, Dominica, Fiji, The Gambia, Republic of Georgia, Ghana Grenada, Guyana, Hungary, Jamaica, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Malaysia, Malta, Mauritius, Moldova, Mongolia, Nigeria, Philippines, Poland, Romania, Russian Federation, St. Kitts/Nevis, St. Lucia, St. Vincent/Grenadines, Seychelles, Sierra Leone, Singapore, Slovak Republic, South Korea, Tajikistan, Tanzania, Tonga, Trinidad/Tobago, Turkmenistan, Tuvalu, Ukraine, United Kingdom (including Anguilla, British Virgin Islands, Hong Kong, Bermuda, Montserrat, and the Turks and Caicos Islands), U.S.S.R. (Although the U.S.S.R. no longer exists as a national entity, many citizens of its*

*successor states still carry passports issued by the former U.S.S.R.), Uzbekistan, and Zambia.*

3. Citizens of other countries should be permitted to contact his or her country's embassy or the nearest consulate. The accused will be informed of this right at the time of the arrest but no later than during booking at the jail. The Appendix contains a list of the current foreign embassies and consulates and their phone numbers.
4. The officer who contacts an embassy or consulate on behalf of an accused foreign national will note the date, time and the name of the person who received the call at the embassy or consulate in a supplemental report and place it in the case file.
5. If the accused foreign national is a juvenile who is not accompanied by a parent or legal guardian, the Immigration and Naturalization Service will be notified at the same time as the Juvenile Court. It is the responsibility of the Immigration and Naturalization Service to contact the embassy of the accused juvenile's nation.
6. If the foreign national is unable to communicate in English, a supervisor will be contacted and every effort made to obtain a translator. Miranda warnings must be translated before a questioning can begin. The investigating officer will include the name, address, telephone number and relationship of the translator to the victim/witness in the Incident Report or Supplemental Report.
7. During major events such as the Olympics, international sporting events, or international conferences, if a foreign national who is officially connected with the event is arrested, the District Attorney or his/her designee (Solicitor in misdemeanor cases) should be immediately contacted by telephone and provided with oral summary of the incident. The prosecuting attorney will advise the supervisor of any special procedures which should be followed.
8. If a foreign national is arrested for a felony, the U.S. Immigration and Naturalization Service (INS) will be notified and provided with the name of the accused and the nature of the charges. By law, the INS is required to notify the appropriate consulate or embassy if one of their citizens has been taken into custody by I.N.S.

#### K Foreign Nationals as Victims or Witnesses to a Crime

1. If a foreign national is a victim or witness in a crime, the investigating officer will determine if the individual anticipates traveling out of the State of Georgia within the next 6 months. If the foreign national indicates that they will be traveling out of Georgia or the officer has reason to believe that the individual may depart the State, the District Attorney's office will be immediately contacted in order that the testimony of the individual may be taken by video.
2. If the foreign national is unable to communicate in English, a supervisor will be contacted, and every effort made to obtain a translator. The investigating officer will include the name, address, telephone number and relationship of the translator to the victim/witness in the Incident Report or Supplemental Report.

## L Defection and Requests for Asylum

1. Defections and requests for political asylum by foreign nationals are highly sensitive and may affect the relations between a foreign government and the United States as well as the treatment of U.S. citizens who travel outside the United States. It is the policy of this Department that all officers will handle any request for asylum or a defection with speed, tact and resolution.
2. If an officer is approached by a foreign national who:
  - a) Requests asylum in the United States, or
  - b) Indicates that he or she wants to defect to the United States, the officer will:
    - (1) Contact his or her immediate supervisor and request the supervisor come to scene immediately. If communication is by non-secure means (i.e. radio) do not indicate the reason;
    - (2) Take the person into protective custody and permit no one to interfere with the situation. It is important that the officer protects the person from harassment or forceful repatriation.
    - (3) Release the person only to the supervisor or a representative from a Federal agency approved by the supervisor.
    - (4) Prepare a written report on the incident.
3. A supervisor, upon learning that a foreign national has approached an officer and (1) requested asylum in the United States, or (2) indicated that he or she wants to defect to the United States, the supervisor will:
  - a) Immediately contact by secure means the U.S. Department of State
  - b) Take the person into protective custody and transport the person to a secure location designated by INS or to headquarters.