



# Glynn County Police Department



Standard Operating Procedures

Effective Date: 03/22/2023

Chapter 1: Section 103

Chief of Police Scott M. Ebner

## Law Enforcement Authority

### 103.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Glynn County Police Department to perform their functions based on established legal authority.

### 103.2 POLICY

It is the policy of the Glynn County Police Department to limit its members to only exercise the authority granted to them by law. Only members that are sworn law enforcement officers will be authorized to execute arrest warrants.

While this department recognizes the power of peace officers to make arrests and authority to take other enforcement action, officers are encouraged to use sound decision making/judgment in the enforcement of the law. This department does not tolerate abuse of law enforcement authority.

### 103.3 PEACE OFFICER POWERS

Certified members of this department are peace officers and are vested expressly with authority to enforce criminal or traffic laws through the power of arrest and the preservation of public order, the protection of life and property, and the prevention, detection, or investigation of crime (O.C.G.A. § 35-8-2(8)).

#### 103.3.1 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE GLYNN COUNTY POLICE DEPARTMENT

Officers may make arrests within the jurisdiction of the Glynn County Police Department (O.C.G.A. §17-4-20):

- (a) Pursuant to an arrest warrant.
- (b) Without a warrant when:
  1. An offense is committed in the officer's presence or within the officer's immediate knowledge.
  2. An offender is endeavoring to escape.
  3. When the officer has probable cause to believe that:
    - (a) An act of family violence has been committed.
    - (b) The offender has violated a criminal family violence order.
    - (c) An offense involving physical abuse has been committed against a vulnerable adult.
- (c) For other cause where there is likely to be failure of justice for want of a judicial officer to issue a warrant.

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#### 103.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE GLYNN COUNTY POLICE DEPARTMENT

Officers may make custodial arrests outside the jurisdiction of the Glynn County Police Department:

- (a) The offense is committed in such officer's presence or within such officer's immediate knowledge.
- (b) While in immediate and continuous pursuit of a person who has committed a criminal offense within Glynn County.
- (c) While aiding or assisting another law enforcement officer in the jurisdiction of the law enforcement agency employing such other law enforcement agency.

#### 103.3.3 GRANTING AUTHORITY TO OTHERS

Officers shall execute penal warrants assigned to them for execution. An officer may summon any citizen to assist in the execution of such warrants (O.C.G.A. § 17-4-24).

#### **103.4 INTERSTATE PEACE OFFICER POWERS**

Peace officer powers may be extended to other states:

- (a) As applicable under interstate compacts, memorandums of understanding, or mutual aid agreements in compliance with the laws of each state.
- (b) When an officer enters another state in fresh pursuit of a person.
  1. Into North Carolina for a criminal offense that would also be considered a criminal offense in North Carolina (N.C.G.S. § 15A-403).
  2. For a felony into South Carolina, Florida, and Tennessee (S.C. Code § 17-13-47; § 941.31, Fla. Stat.; T.C.A. § 40-7-203).

When an officer arrests an individual in another state, the officer shall cause the person to be taken before a judicial officer of the jurisdiction in which the arrest was made for a hearing on the lawfulness of the arrest without unnecessary delay (§ 941.32, Fla. Stat.; T.C.A. § 40-7-204; S.C. Code § 17-13-47; N.C.G.S. § 15A-403).

A law enforcement officer from Alabama, Florida, North Carolina, South Carolina, or Tennessee who enters this state in fresh pursuit of a person shall have the same authority to arrest and hold in custody such person within this state as that of a law enforcement officer of this state; provided, however, that the authority granted by this Code section shall be limited to criminal offenses of the pursuing state that also are criminal offenses under the laws of this state and that are punishable by death or imprisonment in excess of one year under the laws of the pursuing state. (O.C.G.A. § 35-1-15).

#### **103.5 CONSTITUTIONAL REQUIREMENTS**

All members shall observe and comply with every person's clearly established rights under the United States and Georgia constitutions. The Bill of Rights to the federal Constitution, and corresponding provisions in each state constitution, provide citizens with certain fundamental safeguards from intrusive governmental conduct. Particularly relevant to situations involving a criminal suspect or defendant are the Fourth, Fifth, Sixth, and, to a lesser extent, The Fourteenth Amendments.

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The Fourth Amendment guarantees people the right to be secure in their persons, houses, papers and effects against unreasonable searches and seizures. This amendment also provides that no or arrest warrants shall be issued, except those based on probable cause and which particularly describe both the place to be searched and the person or things to be seized.

The Fifth Amendment provides (in pertinent part) that no person shall be compelled to be a witness against oneself in a criminal case. The Supreme Court has also found that an integral part of an accused's right to be free from compelled incrimination, is a judicially created right to have counsel present, and a right to refuse to answer questions during a custodial interrogation, even though the Constitution does not specifically provide such a safeguard.

The Sixth Amendment provides that a defendant in a criminal case, and a suspect in a criminal investigation, when the investigation has focused on that particular person, or has reached a critical stage, shall enjoy the right to counsel to aid in said person's defense. The Fifth and Fourteenth Amendment provide that no person shall be deprived of life, liberty or property without due process of law. In the context of the rights of the accused, or a criminal suspect, this provision has been construed as offering protection against certain fundamentally unfair governmental conduct, particularly the use of suggestive, prejudicial, or discriminatory identification procedures.

### 103.6 ARRESTS AND DETENTIONS

#### A. Definitions

1. Arrest - The use of legal authority to deprive a person of their freedom of movement.
2. Arrest Warrant - A judicial command, issued upon probable cause, to arrest a particular individual and to bring the arrestee promptly before the magistrate issuing the warrant or some other judicial officer. An arrest warrant, issued upon probable cause, authorizes a search of the dwelling of the suspect for that particular suspect, when the police reasonably believe the suspect to be present within the dwelling. (Reference Payton v. New York)
3. Consensual encounters – The basic premise underlying a consensual encounter is that it is essentially voluntary. Such an encounter is based on consent, and can be terminated by either the citizen or the officer.
4. Detentions, Investigative, or 'Terry' Stops – this stop is based upon the officer's reasonable suspicion that illegal activity may be underway, and the subject detained is involved in this activity. The officer may conduct a limited pat-down, or frisk of the outer garments of the person detained, if the officer reasonably believes the detainee is armed and presently dangerous to the officer or others.

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5. 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 or is about to commit an offense.

6. 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 OCGA 17-4-20.

#### B. Arrest Warrants

1. Contents- A valid arrest warrant must contain specific information as required by statute and court decisions. 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, Marshall, or police officer");
  - c. Identification of the person to be arrested;
  - d. The offense committed;
  - e. The time, date, and place of occurrence of the offense, including the county in which it was committed;
  - f. The victim;
  - g. A description of the offense, including all of the elements of the offense.

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

- h. A description of the property alleged to have been stolen;
- i. Identification of the owner of the stolen property;
- j. The value of the stolen property;
- k. The person from whose possession it was taken.

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

2. No officer shall arrest any person under color of a warrant unless he reasonably believes a valid warrant exists and that the person described in the warrant is before him. Only sworn officers will make arrests with a warrant.

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3. Officers will have access to the warrant files 24 hours per day via the administration channel. When an officer executes or attempts to execute legal process he must log the following information with the telecommunication clerk via the administration channel:

- a. The date and time service was executed or attempted.
- b. The name of officer(s) executing or attempting to execute.
- c. The name of the person on whom the legal process was served or executed.
- d. The method of service or reason for non-service.
- e. The address of the service or attempt.

4. When criminal process is received it will be given to the telecommunications clerk for entry into the computer system. The following information will be entered:

- a. the date and time received;
- b. the nature of the document;
- c. the source of the document;
- d. The name of the plaintiff/complainant or the name of the defendant /respondent;
- e. The officer and date assigned;
- f. and the court docket number;

5. After the warrant has been served the arresting officer shall include in his report the name of the defendant and victim, and the date the warrant was assigned for service.

6. The Glynn County Police Officers do not serve civil process. The Sheriff of Glynn County has full responsibility for the service of civil process inside the county of Glynn.

### C. Procedure When Making An Arrest

When a lawful arrest cannot be made except with a warrant, the arresting officer should have the warrant or a copy of the warrant in his physical possession at the time of the arrest, if feasible. If the arrestee requests to view the warrant he may do so during the booking process at the jail. An officer making a lawful arrest has the right to use whatever force is reasonably necessary to accomplish the arrest, but no more than is necessary to take the suspect into custody ([See 300 - Response to Resistance](#)).

### D. Alternatives to Physical Arrest

What is reasonable in terms of appropriate police action or what constitutes probable cause varies with each situation, and the particular facts and circumstances may justify either an investigation, a detention, a search, an arrest, or no action at all. There may be a report written and an application for a complaint made; or in some cases, when the offense

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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 authority as defined by statute and judicial interpretation. In any case where an arrest or detention occurs, an incident report documenting the event will be completed. Specific alternatives to physical arrest are:

1. An officer may inform a suspect that a warrant exist for his arrest and give him the opportunity to turn himself in. This should only be used in lesser offenses and only when the suspect is not a flight risk.
2. Officers may issue a summons to court in situations that warrant procedures might normally be advised, the officer might later take a warrant, or in cases that a warrantless arrest might be made. In all of the above situations the officer must still fingerprint the suspect if the offense is a printable offense.

#### E. Immunity From Arrest

1. Consular Immunity- See [412 - Foreign Diplomatic and Consular Representatives](#)
2. 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."
3. 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 thereto and therefrom except for "treason, felony, larceny, or breach of the peace."
4. Others Exempt from Arrest:
  - a. Members of the organized militia or military forces are exempt from arrest in all cases except treason, felony, or breach of the peace 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 duties. The supervisor shall be informed and he shall contact the commanding officer of the service member if the situation dictates.
  - b. Poll officers during their attendance at elections, and in going to and returning from same.
  - c. Voters while casting their ballots.
  - d. Witnesses on their way to and from court while under subpoena.