

# JUNEAU POLICE DEPARTMENT PROCEDURES



<b>Title:</b>	<b>Arrest Procedures</b>	<b>Chapter: 2.003</b>
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## I. PURPOSE

The purpose of this policy is to provide guidelines to Juneau Police Department officers when conducting arrests.

## II. POLICY

JPD policy is that all arrests shall be made professionally and in accordance with established legal principles. All officers shall understand and follow the laws governing arrest. The protection of the community shall take priority over making an arrest. Officers faced with an opportunity to stop a crime that could endanger the public or allow it to occur and make an arrest, will opt for protecting the community. A case report and a Criminal Case Intake and Disposition form shall be completed on all incidents involving arrests for misdemeanors and felonies.

## III. DEFINITIONS

*Arrest* – The act of taking a person into custody in order that the person may be held to answer for the commission of a crime.

*Arrest Warrant* – A written order issued by a judge or other proper authority that commands a peace officer to take a person into custody in order that the person may be held to answer for the commission of a crime.

*BAC* – Blood alcohol content.

*BRH* – Bartlett Regional Hospital

*CCFR* – Capital City Fire & Rescue

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*Citizen Contact* – A consensual encounter between an officer and a citizen that may be initiated by the officer for any reason and during which the citizen is free to leave at any time.

*Delinquent Act* – An act committed by a person under the age of 18 that would be a crime if committed by a person over the age of 18 except for a traffic offense, a status offense, or the violation of a fish and game statute or a parks and recreational facilities statute.

*Ex Parte Order* – An order issued by a court resulting from a proceeding in which all parties to an action are not present at the hearing.

*Exigent Circumstances* – A legal principle that allows peace officers to search and/or arrest when there is probable cause to do so but due to conditions, facts, or events, a person may be injured, evidence lost, or a suspect escape if the time is taken to seek prior judicial authorization.

*Investigative Detention (Terry Stop)* – Temporary detention for investigative purposes based upon reasonable suspicion (less than probable cause) that the person has committed, is committing, or is about to commit a crime.

*JYC* – Johnson Youth Center

*JYS* – Juneau Youth Services

*Juvenile* – In Alaska, a minor that has not reached the age of 18 years.

*LCCC* – Lemon Creek Correctional Center

*Minor* – A person that has not reached the age of 21 years.

*Probable Cause for Arrest* – The existence of circumstances that would lead a reasonably prudent officer to believe that a person has committed a criminal offense.

*Reasonable Suspicion* – The degree of suspicion of criminal activity that justifies investigative detention but not an arrest.

*Temporary Detention of a Juvenile* – The act of taking a person under the age of 18 into custody.

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*Temporary Detention Order* – A written order issued by a judge that commands a peace officer to take a juvenile into custody.

*Weapon Display* – Drawing a handgun or readying a long gun for immediate use if needed without pointing it at a suspect.

## IV. ARREST AUTHORITY

### A. Officers Shall Only Make Arrests When Based Upon:

1. Probable Cause - Felonies
  - a. Observations of the officer;
  - b. Information or evidence obtained during an investigative detention or during a consensual citizen contact;
  - c. An identified citizen's specific complaint;
  - d. Information provided by a police informant of proven reliability;
  - e. Information provided by other law enforcement sources.
    - 1) Officers should not make an arrest based solely on information received from an anonymous source or on mere suspicion.
  - f. Continuing a citizen's arrest when the elements are present and probable cause exists.
2. Probable Cause - Misdemeanors
  - a. Observations of the officer;
  - b. Without witnessing the act, JPD officers may arrest misdemeanants based on probable cause, only for crimes of domestic violence, driving while intoxicated, and minors consuming alcohol.
    - 1) Cite and release minors arrested for Mandatory Court Appearance to parents.
  - c. JPD officers may consummate a citizen's arrest of a misdemeanor when the elements are present and probable cause exists.
3. Arrest Warrant or Temporary Detention Order
  - a. Obtained from a judge or other legal authority empowered to issue such warrants.
  - b. Warrants shall be in the form prescribed by law and shall adequately identify the person to be arrested.

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- c. JPD officers shall ensure that an arrest warrant is valid and shall take note of any restrictions placed upon the arrest of the person.
- d. Once received, an arrest warrant shall be executed without delay, except as may be required by the circumstances of the case.
  - 1) If there is any question that a warrant has already been satisfied or quashed and the court is not available to comment, do not execute the warrant.
- e. No arrest shall be made in a manner or at a time or place prohibited by any of the following:
  - 1) Language in the warrant;
  - 2) JPD regulation;
  - 3) State or local legislation;
  - 4) Applicable court decisions.

## **V. PROCEDURES**

### **A. Arrests in General**

- 1. Investigative Detention
  - a. Under the Fourth Amendment to the United States Constitution, a police officer is permitted to detain an individual for investigative purposes if the officer believes, based on a reasonable and articulable suspicion, that the individual is engaged in criminal activity, even if there is no probable cause to make an arrest.
  - b. Under the Alaska Constitution, as construed by the Alaska Supreme Court in *Coleman v. State*, 553 P.2d 40 (Alaska 1976), the police may conduct an investigative stop if they have a reasonable suspicion that the person being stopped is committing, or has just committed, a crime involving imminent public danger or recent serious harm to persons or property.
  - c. When an investigative detention where only reasonable suspicion exists is prolonged, firearms are displayed unnecessarily, or handcuffing is prolonged beyond the necessary time to accomplish the purpose of the detention, courts may view the detention as an arrest.
  - d. When a JPD officer reasonably believes that a person in investigative detention poses a safety threat, a pat-down frisk

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for weapons may be conducted, but any further search may not be conducted until or unless there is probable cause for arrest.

- e. In any case when an investigative detention is conducted, a report or a field interrogation card will be completed.
2. Whenever possible, arrests should be planned in advance in consultation with a supervisor, experienced officers, and/or the prosecuting attorney.
  - a. Where advance planning is not practical or possible, JPD officers will follow training tactics in arrest procedures.
  - b. The District Attorney has committed to assisting JPD officers with felony arrests and is available for consultation on a 24-hour basis.
  - c. In felony cases, officers are encouraged to seek the assistance of the on-call District Attorney's office representative prior to making the arrest, particularly in complex cases.
  - d. Officers are reminded that the safety of the public is foremost, and whenever the public safety could be jeopardized, and probable cause exists to make a felony arrest, officers should make the arrest.
3. Arrests shall be made at a time and place and in a manner that will maximize the probability of success and minimize the danger to officers and citizens.
4. When making arrests, JPD officers shall identify themselves, inform the suspect that they are under arrest, and specify the charges for which the arrest is being made.
  - a. Officers in plain clothes shall display their badges and identification to the suspect.
5. JPD officers shall use only that level of force that they reasonably believe is necessary to make the arrest in accordance with JPD's Use of Force policy.
  - a. A weapon may be displayed during an arrest only where it is reasonably believed necessary to ensure the safety of the officer or other citizens.
6. JPD arresting officers shall take all reasonable precautions during the arrest including restraining the suspect, searching the suspect, and making a protective sweep of the area to ensure that no other persons or weapons are present that may present a danger to officers, the arrestee, or the public.

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7. Following the arrest, JPD officers will not normally permit the arrested person to leave the immediate area of the arrest for personal reasons.
  - a. In exceptional cases where it is deemed necessary to grant an arrestee's request, the officer will accompany and closely monitor the arrested person.
8. Whenever possible arrests will be made in an area that presents the least danger to the public should the arrested person offer resistance.
9. No officer shall enter a private premises owned or occupied by a third person to make an arrest without the consent of the person empowered by law to give consent, a search warrant, or exigent circumstances.

## **B. Identification of the Arrestee**

1. The arresting officer shall verify the identity of the person being arrested.
2. The identification of the person being arrested can be verified by identification documents, such as a license, ID card, passport, or similar documents; or personally known to the arresting or assisting officers on scene.
3. When the identification of the arrested person cannot be verified, the arresting officer will request a DMV photo of the prisoner from the communications center to help with identification.
4. If the identification of the person being arrested still cannot be verified, the person will be transported to the correctional facility and booking staff should be immediately notified of the unverified identification.
  - a. A cite and release should not be used when the identification of an arrested person cannot be confirmed.

## **C. Restraint of the Arrestee**

1. Officers should handcuff arrestees in accordance with training and agency policy.

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2. All arrested persons shall be handcuffed after being taken into custody unless doing so would likely result in injury to the arrestee.
  - a. Officers shall handcuff (double-locked) all prisoners with their hands behind their back and palms facing outward;
  - b. Handcuffs should be checked for proper fit.
3. Officers may handcuff the arrestee with their hands in front, or use other appropriate and approved restraining device(s) where the arrestee:
  - a. Is in an obvious state of pregnancy,
  - b. Has a physical handicap,
  - c. Displays behaviors consistent with mental illness or an intellectual/developmental disability,
  - d. Has injuries that could be aggravated by standard handcuffing procedures, or
  - e. Where other special circumstances exist.
4. Multiple handcuffs shall be used when needed to prevent injury.
5. Other means of restraint, such as, hobbles may be used when necessary for the safety of officers, the arrestee, or the public.
6. When restraining individuals on the ground, officers should position the subject in a manner that will assist breathing, such as, placement on their side and avoid pressure to the chest, neck, or head.
7. Arrested persons shall not be restrained in the four-point restraint unless the arrestee is uncontrollable by other means that are readily available.
  - a. Persons restrained in the four-point restraint shall be placed on their sides and monitored for potential physical problems caused by restricted breathing or excited delirium.
8. Following an arrest, officers are legally responsible for the safety of the arrested person, any victims present, and all bystanders.
  - a. Officers should not allow victims or bystanders in the immediate area of the arrested person.
  - b. Officers shall not allow the arrested person out of their immediate presence for any reason until the arrestee is properly secured and transported.



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## **D. Searches**

1. Officers shall conduct a thorough search of the person arrested.
2. Any criminal evidence discovered during the search shall be seized and properly impounded.
3. The search incident to the arrest shall include not only the person but also areas within the reach and control of the arrestee.
  - a. Opening closed, sealed, or locked containers without the permission of the owner or a search warrant violates the protections of the Alaska Constitution.
4. Strip searches shall not be conducted in the field except in extreme circumstances, and any officer conducting a field strip search shall first get supervisory approval and then document the justification in a report.
  - a. When possible, the search will be conducted in a private area.
5. Body cavity searches shall only be conducted by medical professionals at a medical facility.
6. Whenever possible, searches incident to an arrest will be conducted by officers of the same gender as that of the person being searched. When an officer of the same gender is not available, officers will:
  - a. Have a secondary officer available as a witness, and
  - b. Record the search using body worn cameras or another department approved video capture device.
7. Alaska law requires that an arrested person has the right to telephone or otherwise contact another person immediately following the arrest.

## **E. Miranda Rights**

1. JPD officers shall record suspect interviews including the issuance of Miranda rights.
2. Arrested persons shall be given Miranda rights prior to any questioning.



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3. If an arrested person does not waive his or her Miranda rights, no questioning shall be conducted beyond that necessary to accomplish the booking process.
4. After waiving the right to counsel, if the arrested person requests an attorney, all questioning must cease until an attorney representing the arrestee is present or the arrestee voluntarily initiates a further interview.
5. Before Miranda rights are waived, officers shall refrain from engaging in conversation among themselves in the presence of the arrested person that is calculated to elicit incriminating statements or admissions.
6. Before interviewing arrested juveniles, attempts to contact their parents or legal guardians must be made, requesting they respond to the interview.
  - a. Even though juveniles are often "street-smart" and well aware of their rights, the courts will always take the position that juveniles are naïve, easily intimidated, and not aware of the significance of their decisions.
  - b. In order to mitigate the potential of having a juvenile's statements later suppressed, the parents, guardians, and/or attorneys shall be present during the Miranda rights advisement.

### **F. Juvenile Arrests**

1. A JPD officer may arrest a juvenile:
  - a. For the commission of an act that would be a violation of Alaska criminal law or CBJ ordinance should it be committed by an adult;
  - b. If the officer reasonably believes the juvenile is a fugitive from justice;
  - c. If the officer has probable cause to believe that the juvenile has violated a condition of the juvenile's release or probation;
  - d. If the officer reasonably believes the juvenile has been adjudicated a delinquent and has escaped from an institution or absconded from probation, parole, or the jurisdiction of the court;
  - e. That has been lawfully arrested by a citizen. (AS 47.12.245)

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- 1) In assuming responsibility for a citizen's arrest, the officer must ensure the elements of the offense are present and probable cause exists.
2. When a JPD officer detains a juvenile under the provisions above, the juvenile may be held at the Johnson Youth Center (JYC) if the officer believes releasing the juvenile would endanger the juvenile or the community, or the juvenile would likely leave the jurisdiction of the court.
  - a. In all other cases, juveniles should be released to parents or legal guardians.
3. In any case, when a JPD officer detains a juvenile under the provisions above, the court must be immediately notified and reasonable efforts made to notify the juvenile's parents or guardian.
  - a. If a juvenile is detained for any amount of time at JPD, a Department of Juvenile Justice Confinement, Admission, and Release form must be completed and forwarded to the Operations Commander.
4. Juveniles aged 13-17 may be fingerprinted for misdemeanors involving physical injury and all felonies.
  - a. Parental approval must be secured before taking elimination fingerprints from juveniles.
5. Juvenile suspects may be photographed.
  - a. Officers should enter any digital photograph in the RMS Juvenile Custody file.
6. Juveniles arrested for DWI are processed the same as adults, however as a practical matter, they must be released to their parents or legal guardians following testing and processing.
7. Juveniles who are arrested for possession, consumption, or control of alcohol will be released to their parents or guardians.
  - a. In the event a parent or guardian cannot be located and the juvenile does not appear to be impaired and the BAC registers under .10%, the juvenile shall be lodged with Juneau Youth Services for protective custody.
  - b. If a parent or guardian cannot be located and the juvenile is "noticeably impaired", the juvenile shall be taken to Bartlett Regional Hospital (BRH) for a medical evaluation and then lodged at JYC for protective custody.

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8. JPD officers shall take runaway juveniles into protective custody and follow the directives in AS 47.10.141 and ROM 4.402.

## **G. DWI Arrests – See ROM 4.614**

## **H. Ill, Injured, and Disabled Prisoners**

1. Due regard will be given to prisoners who report they are ill, injured, or disabled.
  - a. Related information shall be provided to any receiving facility, such as, LCCC or JYC.
  - b. Prisoners who could reasonably require medical attention shall be taken to BRH for examination prior to incarceration.
    - 1) If injury is the result of JPD action, JPD will assume responsibility for the emergency room charges.
2. Officer must ensure that disabled prisoners are assisted as necessary so that the arrest and booking processes are completed with as little distress as possible.
  - a. If a disabled prisoner needs to use restroom facilities, he/she shall be escorted to the ADA-equipped restroom in the main hallway.

## **I. Arrest of a CBJ Employee**

1. All precautions must be taken and all procedures followed for arresting non-employees.
2. The guidelines in ROM Policy 3.400 and 4.036 must be followed.
3. The Office of the Chief of Police must be notified any time a CBJ employee is arrested.
4. The shift supervisor shall secure the RMS case in a confidential folder.

## **J. Citations**

1. Citations serve as lawful complaints for the purpose of prosecution when issued to violators and filed with the court having jurisdiction.

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2. By statute, citations must be tightly controlled by the Police Department.
  - a. Most citations are processed and tracked electronically via TraCS.
  - b. Officers are required to sign out paper citation books from the Records Unit.
  - c. The Records Unit will keep a record of all paper citations signed out to officers as they are issued to violators.
  - d. Officers will forward all voided citations to the Records Unit.
3. JPD officers may issue citations in lieu of arrest for the commission of a misdemeanor or the violation of a municipal ordinance unless:
  - a. The person does not furnish satisfactory evidence of identity;
  - b. The officer has reasonable cause to believe the person is a danger to self or others;
  - c. The crime involves violence or harm to another person or property;
  - d. The person asks to be taken before a judge;
  - e. The officer has probable cause to believe the person has committed a crime involving domestic violence;
  - f. It is a DWI arrest.
4. Before deciding to issue a citation for a misdemeanor, officers should consider if an associated investigation would be jeopardized by the release of the suspect.
5. JPD officers shall issue a citation in lieu of taking a person before a judge for the commission of an infraction or violation of CBJ ordinance unless:
  - a. The person does not furnish satisfactory evidence of identity;
  - b. The person refuses to accept the citation or sign the citation giving written promise to appear.
    - 1) The person will be taken into custody and brought before a judge as soon as is practicable.
6. Juveniles shall be released on citations for traffic offenses, status offenses, violations of fish and game statutes, and parks and recreational facilities statutes.
  - a. Officers must write "Parent Must Appear in Court with Juveniles" on the citation.
  - b. Juveniles that choose to plead guilty to a violation for which there is an established fine schedule, may mail the fine without appearing in court.

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7. When issuing a citation for an “inspectable infraction” for a correctable violation, the officer must write “Repair by \_\_\_\_\_” on the citation.
8. In any case for all infraction citations, a court date of at least 30 days from the date of the infraction must be set by the officer.
9. For misdemeanor citations, a court date within 5 days must be set by the officer.

## **K. Release Following Arrest**

1. Following an investigation when a JPD arresting officer believes that insufficient grounds exist for the issuance of a complaint, the suspect shall be released with the approval of a supervisor.
  - a. Officer must ensure that the report refers to the arrest as a detention.
  - b. Officer must ensure the person is released at a safe location.
2. Persons arrested for complex crimes may be released pending the issuance of a complaint by a prosecuting attorney.
  - a. Officer must ensure that no one is reasonably put at risk by the release of the arrested person.
  - b. Officer must contact the prosecutor and follow his or her direction for continuing the investigation.

## **L. Protective Custody**

1. Under certain circumstances, JPD officers may take persons into protective custody that does not constitute an arrest.
  - a. Runaway juveniles (AS 47.10.141)
  - b. Mentally ill persons (AS 47.30.705)
    - 1) When the person is gravely disabled or is likely to cause serious harm to self or others.
  - c. Alcohol Incapacitation (AS 47.37.170 (b))
    - 1) A person who appears to be incapacitated by alcohol or drugs in a public place shall be taken into protective custody by a peace officer.
      - a) Incapacitation means a person who, as a result of alcohol or drugs, is unconscious or whose judgment is otherwise so impaired that the person is incapable of realizing and making rational decisions with respect to

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the need for treatment and is unable to take care of the person's basic safety or personal needs, including food, clothing, shelter, or medical care;

- b) Incapacitated people will require a medical evaluation by CCFR and should be handled according to medical protocol.
  - c) Officer must complete a JPD incident report documenting the level of intoxication and the disposition of the intoxicated individual.
  - d) When an officer will transport a person from BRH to LCCC, the officer must ensure that the person qualifies for protective custody at LCCC. If the person qualifies for protective custody at LCCC, the officer shall
    - (i) get a medical clearance from BRH before lodging them at LCCC and bill medical expenses to the Department of Health and Social Services (DHSS)
    - (ii) complete a non-criminal commitment remand form at LCCC and a JPD incident report documenting the incapacitation and the disposition of the individual.
- d. Alcohol Intoxication (AS 47.37.170 (a))
- 1) A person who appears to be intoxicated in a public place and to be in need of help or a person who appears to be intoxicated in or upon licensed premises where intoxicating liquors are sold or consumed who refuses to leave upon being requested to leave by the owner, an employee, or a peace officer may be taken into protective custody
    - a) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or drugs
    - b) Officers must take the intoxicated person home, to an approved treatment facility, or an appropriate health facility.
    - c) In circumstances where the need for help is immediate, such as, extreme weather or other factors, an intoxicated person who is in need of help shall be taken to LCCC if the person's home, approved treatment facility, or an appropriate health facility is unavailable.
    - d) Complete a JPD incident report documenting the level of intoxication, the apparent need for help, and the disposition of the intoxicated individual.
  - 2) Juveniles will not be lodged at LCCC for being intoxicated.

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2. JPD officers have duties related to reporting specific incidents to state authorities so that individuals will be taken into protective custody.
  - a. Abused/neglected children (AS 47.17.025)
  - b. Vulnerable adults (AS 47.24.010)
3. When serving an Ex Parte court order, officers will notify the issuing court before taking the committed person to a facility other than the facility named in the order.

### **M. Immunity from Arrest**

1. Certain foreign diplomats and consular officials (See ROM 2.005)
2. Members of the U.S. Congress when going to and returning from their congressional Houses.
  - a. Except in cases of treason, felony, and breach of the peace.
3. Alaska State Legislators when they are attending, going to, or returning from legislative sessions.
  - a. Except for felonies and breaches of the peace.
  - b. Legislative immunity extends for a period of five (5) days immediately preceding and following the legislator's attendance at the session or meeting.

Ed Mercer

A handwritten signature in cursive script that reads "Ed Mercer".

Chief of Police