

Narragansett Police Department

40 Caswell Street, Narragansett, RI 02882

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Policy 100.01

Limits of Authority

01 Purpose

The purpose of this policy is to establish procedures for ensuring compliance with constitutional requirements during all criminal investigations.

02 Policy

The Narragansett Police Department expects officers to observe constitutional safeguards thoroughly and proficiently. The department further expects that officers understand the limits and prerogatives of their authority to act. Respect for the civil liberties of citizens shall be the paramount concern in all enforcement matters.

03 Procedures

- A. Probable cause - Searches (with the few important exceptions outlined in this order) and all arrests are based on the police officer's perception of probable cause. According to the U.S. Supreme Court, "Probable cause exists where the facts and circumstances within their [the arresting officers'] knowledge and of which they had reasonable trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief that an offense has been or is being committed."
1. An officer must have probable cause to undertake an arrest.
 2. When an officer has appropriate probable cause, he or she may undertake a complete body search (not including a strip or body-cavity search--see Policy # 370.01), record the suspect's fingerprints, take the suspect's photograph, and jail him. The aim of probable cause is to make a formal charge.
- B. Elements of probable cause
1. Probable cause may be established through anonymous sources provided that the information is corroborated by investigation.
 2. Unnamed informants may be used in an affidavit for a search warrant if the informant has first-hand knowledge of the investigation and information is included about why the informant is credible and reliable. See for Department Policy # 340.02 Criminal Intelligence further information on informants.
- C. Reasonable suspicion- Reasonable suspicion involves a standard less than probable cause, generally defined by the courts as a circumstance or collection of circumstances that would lead a trained, experienced officer to believe that criminal activity may be afoot.

1. An officer must have reasonable suspicion to temporarily detain a citizen.
2. When an officer has reasonable suspicion, he or she may undertake a pat-down of a suspect's outer clothing for weapons and record the circumstances of the encounter. The aim of reasonable suspicion is to resolve an ambiguous situation.

04 Interviews & Interrogations

A. Definitions

1. An **interview**, as opposed to an interrogation, may be construed as any conversation with a suspect, witness, victim, or the citizen.
2. An **interrogation**, to paraphrase the Supreme Court, includes direct questioning (or its functional equivalent) about a crime or suspected crime, as well as any words or conduct on behalf of the police that may elicit an incriminating response from the suspect.
 - a. Officers are reminded that an interrogation does not rely solely or exclusively on words; conduct can be the "functional equivalent" of asking questions.
 - b. A person is in custody when an officer tells him or her that he/she is under arrest. The functional equivalent of being in custody occurs when a reasonable person in the suspect's place would feel that his or her freedom of action has been restricted to the same degree as a formal arrest.

B. Rights admonition

1. In order to achieve uniformity in administering Miranda warnings, police officers shall be issued cards with the Miranda warnings. Officers will also be provided Miranda waiver forms. Before custodial interrogation, officers shall advise suspects of their rights by reading aloud from the card or have the suspect read the Miranda waiver form.
2. After the warning, in order to secure a waiver, the officer shall ask and receive affirmative replies to the following questions:
 - a. "Do you understand each of these rights I have explained to you?"
 - b. "Having these rights in mind, do you wish to talk to us now?"
3. When practicable, officers will have the suspect sign a Miranda waiver form after their rights have been read, understood, and the suspect wishes to waive them. Officers shall interrogate suspects only when they have waived their rights either verbally or in writing. Refer to Department Policy 340.13 entitled "Electronic Recording of Custodial Interrogations" for guidance on Miranda waivers for Capital offenses.
 - a. Officers shall cease questioning whenever the suspect invokes the right to silence or requests the presence of counsel.
 - b. If a suspect, once in custody, requests counsel after being advised of Miranda rights,

he or she cannot be interrogated again about the crime for which he or she was charged, other crimes, or by any other officers unless

- i. the counsel is present during the interrogation or
- ii. the suspect himself initiates the interrogation.

Officers therefore cannot obtain a waiver under these circumstances unless the suspect initiates interrogation.

- c. If a suspect refers to counsel but his or her intentions are unclear, officers may question the suspect further to clarify his or her intentions.
 - d. If the suspect is deaf or unable to speak English, the interrogating officer shall notify the on-duty supervisor and arrange to obtain an interpreter.
4. If a suspect has invoked his or her right to silence, officers may interrogate the suspect if, after a passage of time, the suspect initiates communication with officers. Before questioning, however, officers shall again administer Miranda warnings and shall obtain a written waiver.

C. Voluntariness of confessions

1. The courts have provided officers with much latitude in interrogating suspects. If a suspect claims that he or she was coerced into confessing, the courts will examine the interrogation according to the totality of the circumstances. If interrogation methods appear to overcome the suspect's will, then the courts will find any resulting confession to be involuntary.

D. Exemptions or special cases

1. Miranda warnings do not apply to the following situations that are non-custodial. This list is not all-inclusive:
 - a. Brief on-scene questioning
 - b. Identification procedures such as fingerprinting, conducting a lineup, sobriety tests (Questioning during booking may require Miranda warnings)
 - c. Volunteered spontaneous statements (Once the officer has heard the suspect express spontaneous incriminating statements, the officer shall then advise the suspect of Miranda rights and obtain a waiver before asking additional questions)
 - d. Brief investigative detention or stop/frisk
 - e. Roadside questioning during routine traffic stops, including DUI stops until custodial interrogation begins
 - f. Routine booking questions attendant to arrest

g. Questioning by private persons

h. Phone conversations

2. **Public-safety exception:** When an officer urgently needs information from a suspect because lives are in imminent danger, officers may delay giving Miranda warnings until the officers have received information sufficient to dispel the emergency. Officers are advised that a genuine, life-threatening emergency must exist.

E. Documentation requirements

1. Officers shall document the circumstances surrounding the conduct of interrogations and the recording of confessions. Required information includes, but is not limited to, the following:
 - a. Location, date, time, duration of the interrogation
 - b. Identities of all people present
 - c. Miranda warnings given, the suspect's responses, and any waivers provided
 - d. The nature and duration of any breaks or lapses during the interrogation and the reasons for them
2. Video or audio tape recordings shall be treated as evidence and handled accordingly. Before the tapes are stored as evidence, a duplicate shall be made and likewise treated as evidence, the fact of it being a duplicate should be clearly noted on all paperwork.
3. Officers should refer to Department Policy # 340.13 entitled, "Electronic Recording of Custodial Interrogations" for additional information on recording requirements and procedures.

05 Search & Seizure

A. Definitions:

1. A **search** occurs where (1) there is a "prying into hidden places by the police officer" and (2) the person whose premises or person is being searched has a reasonable expectation of privacy.
2. A **seizure** occurs when there is some meaningful interference with an individual's possessory interests in that property.

B. The Fourth Amendment guarantees the right for people to be free from unreasonable searches and seizures of their homes, persons and things. The Supreme Court is continuously interpreting the Fourth Amendment as it applies to police conduct. Illegally seized items of evidence will not be admitted in court and may be cause for a lost criminal case. Additionally, an illegally conducted search invites civil suits and criminal prosecution.

1. **Exceptions to Search Warrant Rule-** Exceptions to the parameters of the search warrant rule occur when it is impractical to secure a warrant or when there is explicit or implied consent to the

search. Also, warrants may not be required when facts and circumstances preclude any reasonable expectation of privacy. Exceptions to the warrant rule include but are not limited to:

- a. Consent searches
- b. Emergency searches
- c. Plain view
- d. Abandoned property and open fields
- e. Public Places, "Open View"
- f. Inventory searches of vehicles
- g. Search incident to arrest
- h. Lawful stops, 4th Amendment frisks and "plain feel" seizures
- i. Search & seizure of moveable vehicles

C. Consent Searches

1. A search warrant is not necessary where a person who has authority or control over the thing or place searched consents to the search. Note that the officer doesn't have to have reasonable suspicion or probable cause to make a consent search: he or she may merely ask for permission from someone with control over the premises. If that person grants permission, the search may take place. If possible, have the consenting party sign a written permission-to-search form. The sole justification for a consent search is the existence of knowing, intelligent, and voluntary consent. Consent searches must observe the following rules:
 - a. Generally, the person granting consent must use, access, or control the property. A person having exclusive possession of some part of jointly-owned property can only give consent for a search of that part.
 - b. If two people have joint ownership of property, either may give consent to a search of shared common areas but not unshared areas. If one of the two people objects to the search of the shared common area, then no search shall be conducted.
 - c. A landlord, including a hotel or motel manager, cannot consent to a search of a tenant's premises, unless the tenant has been evicted or has abandoned the property.
 - d. A parent may consent to a search of premises occupied by a dependent child if the parent also has access to the premises.
 - e. An employee cannot give valid consent to a search of his employer's premises unless he has been left in custody of the premises.
 - f. An employer may generally consent to a search of premises used by employees, except premises used solely by an employee (e.g., a locker).

- g. A person stopped by police solely for a traffic safety offense cannot be asked to consent to a search of his/her motor vehicle absent the existence of reasonable suspicion or probable cause of criminal activity exists.
 - h. No juvenile shall be requested to consent to a search unless reasonable suspicion or probable cause of criminal activity exists. In those instances, in which a warrant would otherwise be required, you must advise the juvenile that he/she may refuse to consent to, or limit the scope of, any requested search.
- 2. Consent must be given voluntarily. If an officer requests consent from a citizen under circumstances which a reasonable person would consider coercive, then officers must seek a warrant. The officer may have the burden of demonstrating voluntariness.
 - 3. A person who initially gives consent may withdraw it at any time. Officers shall then secure the premises and seek a warrant if probable cause exists.
 - 4. Refusal to give consent, in itself, cannot justify further law-enforcement action.
 - 5. The scope of a consent search is limited to the area for which consent has been given, and within this area officers may search only into areas where the objects sought could reasonably be hidden.

D. Emergency searches

- 1. A search warrant is not necessary in an emergency. An emergency is sometimes termed "exigent circumstances."
- 2. Considerations that determine whether an emergency exists include:
 - a. The degree of urgency involved and the time required to get a warrant.
 - b. Officer's reasonable belief that contraband is about to be removed or destroyed. Note that not all crimes are serious enough to create exigent circumstances. See "e" below.
 - c. The possibility of danger to others, including officers left to guard the site.
 - d. Information that the possessors of contraband are aware that police are on their trail.
 - e. Whether the offense is serious, or involves violence.
 - f. Whether officers reasonably believe the suspects are armed.
 - g. Whether the officers have probable cause at the time of entry.
 - h. Whether the officers have strong reason to believe the suspects are present on the premises.
 - i. The likelihood that the suspects will escape.
 - j. The suspects' entry onto premises after hot pursuit. To justify warrantless entry following

hot pursuit, the arrest process must have begun away from the premises, and the offender knows that he or she is under arrest, and the offender tries to avoid arrest.

- k. A reasonable belief that someone on the premises is in distress and in need of emergency assistance.
- 3. If officers enter premises with probable cause to believe that critical evidence may be destroyed or removed unless immediate action is taken, they may enter without a warrant, secure premises, and obtain a search warrant before proceeding further unless they have obtained consent to search, or some new circumstances arise necessitating another warrantless search.

E. Plain view

- 1. A plain-view seizure is, technically, not a search. To make a plain-view seizure of property (contraband, fruits, or instrumentalities of the crime), two requirements must be met:
 - a. From a lawful vantage point, the officer must observe contraband left in open view; and
 - b. It must be immediately apparent to the officer that the items he or she observes may be evidence of a crime, contraband, or otherwise subject to seizure.

F. Public Places, "Open View"

- 1. There is no requirement that you obtain a warrant before seizing things brought into public places open to public view.
- 2. Nor is a warrant needed just to look at something that is in "open view," even if you would need a warrant to seize it.
 - a. For example, while standing on the front porch of a home, you look through an uncontained window and see marijuana on a table. As long as it was proper for you to be on the porch, that observation is not a search. This does not mean, however, that you may enter the house and seize the marijuana.

G. Abandoned property and open fields

- 1. A search warrant is not required for property that has been abandoned.
- 2. To constitute abandoned property, two conditions must apply:
 - a. Property was voluntarily abandoned
 - b. Property was discarded outside the area in which someone has a reasonable expectation of privacy.

3. Open fields are not protected by the Fourth Amendment, but officers must distinguish them from curtilage, searches of which require a warrant. Curtilage is the area of a dwelling, which is necessary, convenient, and habitually used by the family for domestic purposes. The extent of curtilage of a private residence is determined by whether the area is enclosed; the nature and use of the area; the proximity of the area to the home; and any measures taken by the owner to protect the area from observation.

H. Inventory Searches

1. The department requires officers to inventory any lawfully impounded vehicle, or a vehicle removed from the street and placed in police custody. Any evidence or contraband found during the inventory may be used to formulate probable cause for a subsequent search or arrest. Vehicles shall be inventoried per departmental procedure, which requires an inventory of the entire contents, including closed containers (provided they can be opened without breakage). The purpose of an inventory is to ensure safekeeping of private property and to protect the department from liability. (see Motor Vehicle Inventory Policy #330.05 for details)

I. Search incident to an arrest

1. A search incident to an arrest is an exception to the warrant requirement.
2. The arrest must be lawful, and the search can be made only of the immediate area within the control of the person being arrested.
3. The search must be made contemporaneous to arrest.
4. A search incident to a lawful arrest is permitted to:
 - a. Protect the arresting officer and others
 - b. Prevent escape or suicide
 - c. Seize contraband or the fruits, instrumental or evidence of a crime
 - d. Prevent the destruction of evidence
 - e. Provide an inventory of those items on the person or in his/her possession at the time of arrest.

J. The scope of the search:

1. As a general rule, an officer may search the arrested person, everything in his/her possession, and everything which, in the course of the arrest, is within his/her immediate control.
2. Anything in the actual possession of the person arrested may be searched, (i.e., a carton, suitcase or purse being carried by the arrestee.)
3. Items within the reach of the person or within his/her immediate physical control can be searched.
4. You may search a motor vehicle incident to arrest only if it is reasonable to believe that the

arrestee might access the vehicle at the time of the search or that the vehicle contains evidence of the offense of the arrest. During the course of this search, open and closed containers may be inspected. A locked car trunk may not be searched solely on the arrest.

5. During the arrest, if the officer observes a suitcase or other closed container in open view but not in the arrested persons' actual possession or immediate control, the item may be seized as a protective measure. The suitcase or container may be searched only if probable cause exists to do so and a warrant has been obtained.
6. You may conduct a quick and limited search of a premises incident to arrest to protect the safety of police officers or others. The purpose of the protective sweep is to ensure that there are no additional dangerous persons hiding in close proximity to the arrest scene.

K. Lawful Stops, 4th Amendment Frisks and "plain feel" Seizures

1. Definitions:

- a. 4th Amendment Stops are brief, involuntary detentions for the purpose of investigating whether an individual is involved in criminal activity.
- b. "Moving" or "Rolling Stops" are an extension of the rational applied to 4th Amendment Stops but applied to motor vehicles.
- c. Reasonable Suspicion- Articulable facts and circumstances that would lead a reasonable police officer, based on his/her training and experience, to suspect that criminal activity may be afoot.
- d. Frisks- A limited pat down of a suspect's outer clothing to detect the presence of a weapon.

2. Officers must be able to document reasonable suspicion in order to conduct a lawful stop (4th Amendment or Moving).

3. Scope of a Lawful Stop:

- a. A lawful stop permits officers to "freeze" a situation long enough to get the name and address of the person detained and an explanation of the suspicious circumstances surrounding the stop.
- b. The duration of the stop is to be based upon common sense and ordinary experience. The courts have not specified time limits preferring to analyze the reasonableness of the duration on a case by case basis.

4. Questioning During a Lawful Stop:

- a. The purpose of questioning following a lawful stop is to dispel or confirm the officer's reasonable suspicion that the detained person is involved in criminal activity so permissible questions are those designed to accomplish this purpose. Questioning is generally limited to asking the detained person's name, address, what he/she is doing and where he/she is going.

- b. If there is no reason to detain a person after brief questioning they must be allowed to go on their way. Any further detention will be considered an arrest and must be supported by full probable cause.

5. Fourth Amendment Frisks

- a. A lawful stop is required for a lawful search but officer may not automatically conduct a frisk of every person lawfully stopped.
- b. Frisks require additional facts beyond those used to support the lawful stop. Officers must be able to document reasonable suspicion that shows why they suspect a suspect may be armed and dangerous.

6. Scope of Lawful Frisk

- a. A frisk should be no more intrusive than is necessary to confirm or dispel the officer's reasonable suspicion that a suspect is armed and dangerous.
- b. An officer may remove and inspect any item that the officer reasonably believes is a weapon or could contain a weapon. The officer must articulate the relevant facts and the training, knowledge and experience that led the officer to reasonably conclude that the item was a weapon or that the item could contain a weapon.
- c. The officer conducting the lawful frisk may also frisk any "lunging" area from which the suspect could obtain a weapon. This includes a closed container within lunging distance of a suspect. The officer may open the container to check for weapons if the following applies.
 - i. In light of the officer's training and experience the container could contain a weapon and
 - ii. the container is not locked
- d. If the subject of the lawful frisk is in a motor vehicle an officer can order the suspect from the vehicle and frisk both the suspect and the vehicle.
- e. During a lawful frisk (stemming from a lawful stop) if an officer detects an object that is or might reasonably be an item that is contraband or other criminal evidence, the object may be seized. Threatening items such as weapons may always be removed during frisks. Non- threatening items may be removed only if their contraband or evidentiary nature is immediately apparent (the so-called "plain-feel" or "plain-touch" rule).

L. Search & Seizure of Moveable Vehicles

1. Definitions:

- a. For the purposes of this section, a motor vehicle is any vehicle operating or capable of being operated on public streets or highways, from trucks to automobiles to mobile homes. A vehicle that has been immobilized in one location for use as a storage facility or home is not a motor vehicle for Fourth Amendment purposes.

- b. For the purpose of this section, a search is an examination of a motor vehicle with an investigative motive, that is, to discover evidence or to examine the vehicle identification number (VIN) to ascertain ownership.
- 2. Any vehicle that has been disabled with little chance of its being driven away shall be searched with a warrant.
- 3. When probable cause exists, a search may extend anywhere within the vehicle, unless the probable cause is limited to a specific part of the vehicle.
- 4. An entry into the vehicle to examine the VIN or otherwise determine ownership must be limited to these purposes.
- 5. Containers within the vehicle- As a rule, no container within a vehicle shall be searched unless it might contain the item(s) sought.
- 6. Locked containers shall be opened under a warrant, under most conditions, unless one of the following circumstances has been met:
 - a. Consent has been given
 - b. Probable cause exists to search the vehicle and the object of the search might be found in the container. (Even in this circumstance, a warrant is preferred.)
 - c. Motor Vehicle Inventory. (see Motor Vehicle Inventory Policy #330.05 for details)
- 7. Conduct of the vehicle search:
 - a. When possible, searches of vehicles shall be conducted contemporaneous with the stopping or discovery of the vehicle. As a general rule, vehicle searches shall be conducted as soon as reasonably possible.
 - b. When possible, officers shall avoid damaging a vehicle or its contents, and shall minimize the intrusiveness of the search and any inconvenience suffered by the passengers or owner as much as possible.
 - c. As vehicles may contain sharp or pointed objects, and perhaps even syringes or other materials with body fluids on them, officers shall take precautions to minimize exposure to communicable diseases.

06 Search Warrants

A. Signing warrants

- 1. All officers with the rank of Detective, Sergeant or higher rank may apply for a search warrant.
- 2. Search Warrants may be issued to search for and seize any of the following four (6) types of items:

- a. Fruits of a Crime: Material objects acquired by means or in consequence of the commission of the crime.
- b. Contraband: Items kept, concealed or possessed in violation of the law or items kept for the purpose of violating the law.
- c. Instruments of a Crime: Items, which will aid or have been used in the commission of a crime, such as weapons and burglary tools.
- d. Samples of blood, saliva, hair, bodily tissues, bodily fluids or dental impressions from the body of a person that may yield evidence of the identity of the perpetrator of a crime when subjected to scientific or other forensic analysis.
- e. Samples of blood or breath that may yield evidence of the presence of alcohol or a controlled substance when subjected to a chemical test, as contemplated in RIGL 31-27-2.
- f. Other Evidence: Items which will aid in the apprehension or conviction of a criminal, such as bloody or ripped clothing, or business records. This evidence may be seized providing the warrant clearly states its connection to the crime.

B. What areas may be searched with a warrant

1. The scope of a search is determined by the language in the warrant.
2. Officers executing a search warrant may search areas where the items named in the search warrant may be concealed. For example, if the warrant states television sets, officers may not look in small containers or drawers. However, if the warrant is for narcotics, a search into drawers and containers would be permitted.

C. Executing a Search Warrant

1. The complaining officer requesting the Search Warrant will be present during the execution of the warrant.
2. If the complaining officer is not a Captain or above, then he/she must notify the Chief, or Captain prior to executing the warrant.
3. The Patrol Division O.I.C. may designate another officer to be present during the execution of the warrant.
4. This designee will be directly responsible to the Patrol/Detective Division O.I.C.
5. A minimum of two (2) uniformed officers will be present during the execution of the Search Warrant.
6. Whenever possible, if the suspect(s) is a female, a female officer should be present during the search.
7. While executing a Search Warrant, all department policies pertaining to the use force will be

adhered to.

8. No Search Warrant will be executed after sunset, unless specifically authorized by the magistrates upon satisfactory cause.
9. A “No Knock” entry may be made only when the officers have reasonable suspicion that knocking and announcing their presence, under the particular circumstances, would be dangerous or futile, or that it would inhibit the effective investigation of a crime by, for example, allowing destruction of evidence.
10. A “high threat” Search Warrant is defined as a search where there is reliable intelligence that the person present is armed or has threatened to use force to counteract police intervention.
11. In case of a “high threat” Search Warrant, a S.W.A.T. Team will be used to effect entry and secure the scene.
12. It is the responsibility of the complaining officer to brief the S.W.A.T. team leader.
13. Once the S.W.A.T. team has gained entry and secured the scene, department members shall be responsible for searching the scene.
14. If the property owner is to be arrested on the basis of the search or other outstanding warrants, he/she may be removed and returned to headquarters immediately.
15. If the property owner is not under arrest, he/she should remain until the search is completed.
16. If the property owner is combative, interfering or poses a possible obstruction in the furtherance of on-going investigation(s)/Search Warrant(s), he/she may be removed from the property until the search or searches is complete.
17. The complaining officer will leave the property owner a detailed return of service.

07 Arrests

A. Title 12, Chapter 7, of the Rhode Island General laws gives law enforcement officers the authority to enforce criminal laws of the state and ordinances and regulations of the jurisdiction to which they are appointed. In addition, certain provisions of the town charter and ordinances permit a police officer to exercise his/her lawful authority within the Town of Narragansett.

1. The State of Rhode Island has no statutory law, which grants a police officer of a city or town the general authority to act as a police officer throughout the State at all times.
2. There is no statute in Rhode Island relating to Citizen’s Arrest, but the courts have held that the common law rule allowing such felony arrests would be followed.
3. Although there is no Rhode Island statute authorizing police officers in non-pursuit situations outside their jurisdictions, there are certain situations where such arrests are permitted. A police officer has no official jurisdiction outside his/her own jurisdiction, but he/she does have the same authority as any private citizen to arrest without a warrant.

4. On-duty officers may exercise their authority as police officers and arrest outside the town in limited circumstances.
 - a. Under the common-law doctrine of fresh pursuit, an officer may pursue a felon or suspected felon, with or without a warrant, into another jurisdiction and arrest him/her there. Additionally, by statute, officers in hot pursuit for violations of the Motor Vehicle Code within the State of Rhode Island may arrest outside the town but within the State of Rhode Island.
 - b. Pursuant to RIGL (12-7-19): Arrest after close pursuit by officers from cities or towns— Any member of duly organized municipal peace unit of another city or town of the state who enters any city or town in close pursuit, and continues within any city or town in such close pursuit, of a person in order to arrest him or her on the ground that he or she has violated the motor vehicle code in the other city or town shall have the same authority to arrest and hold in custody the person as members of a duly organized municipal peace unit of any city or town have to arrest and hold in custody a person on the ground that he or she he or she has violated the motor vehicle code in any city or town.
 - c. Police officers assigned to the State Warrant Squad or any Duly-authorized agent of the state, on a temporary basis, may arrest outside the Town of Narragansett consistent with the grant authority afforded to the agent of the state by statute.
 - d. Officers responding to a request for emergency police assistance (mutual aid) from another police department within the state, shall be subject to the authority of the requesting Chief and have the same authority, powers, duties, privileges, and immunities as a duly appointed police officer of the city or town making the request until the requesting Chief of Police discharges and releases the assisting police officers to their own departments. (per RIGL 45-42-1).
 - i. Whenever officers of the Narragansett Police Department are requested to assist an outside department, the patrol Officer-in-Charge (OIC) will determine how many officers are sent based on the type of assistance requested.
 - ii. If an outside department other than a bordering town or city is requesting assistance, the OIC must contact the Captain or the Chief of Police to obtain approval prior to sending any officers. The OIC will then complete a report to the Chief of Police in reference to the assistance.
 - iii. The following exception to this policy will apply: When the Narragansett Police Department is requested to assist an outside department for traffic duties only and the number of officers needed does not exceed two.
 5. Sworn members of the department are expected to use good judgment, discretion, and common sense in considering the individual circumstances when dealing with citizens; actions are to be professional, objective, and non-prejudicial.
- B. Arrest – Sworn members will use good judgment, discretion, and common sense in considering individual circumstances when deciding what, if any, enforcement action to take for violators of the law. Only sworn officers of the department may affect an arrest.

particular charge(s). When an arrest is made, the justification must be sufficient to support the charge and will be documented in a written arrest report.

2. It is preferable to obtain a warrant prior to making an arrest if time and circumstances permit. However, under Title 12 of the general laws, an arrest without a warrant may be made in any felony or certain misdemeanors under the following conditions:
 - a. Misdemeanor-A peace officer may without a warrant arrest if the officer has reasonable cause to believe that the person is committing or has committed a misdemeanor or a petty misdemeanor, and the officer has reasonable ground to believe that person cannot be arrested later or may cause injury to himself or herself or others or loss or damage to property unless immediately arrested.
 - b. Felony- a peace officer may without a warrant arrest a person for a felony whenever:
 - i. The officer has reasonable ground to believe that a felony has been or is being committed and that the person to be arrested has committed or is committing it.
 - ii. The person to be arrested in fact has committed or is committing a felony and in that case it shall be immaterial that the officer did not believe him or her guilty or on unreasonable ground entertained belief in his or her guilt.
3. If an arrest warrant is issued, the arrest will be made by a sworn police officer. To affect such an arrest within a private residence, entry will be made only under exigent circumstances, with a search warrant, or with permission of an occupant or the owner.
4. A police officer may have numerous alternatives to detention in any given situation, while in other situations, arrest is the only alternative.
5. A police officer is authorized to execute an arrest warrant anywhere within the State of Rhode Island, and when situations permit, must do so with the authorization of the Officer-in-Charge.
6. When actually making an arrest, the officer must announce that he/she is a police officer. When arresting on a warrant, the officer must show the warrant to the suspect and/or inform the suspect of the charges.
7. In addition to arrest, based upon his/her discretionary judgment of the particular situation, an officer may use available alternatives.
 - a. District Court or RITT Summons
 - b. Municipal Court Summons
 - c. Verbal warning
 - d. Notice & Demand motor vehicle equipment tag
 - e. Commitment to an approved public treatment facility
 - f. Referral to a social service agency.

C. Arrest in a Foreign Jurisdiction

1. Officer(s) will provide all necessary documentation to assist the Department of Attorney General.

2. When an officer receives information that a wanted person is residing in another state, and the State of Rhode Island represented by the Department of Attorney General authorizes extradition, the following procedure will be followed.
3. The investigating officer will contact the law enforcement agency that has jurisdiction over the location of the arrest.
4. A message will be sent, via the National Law Enforcement Telecommunications System (NLETS) stating the crime(s) for which the subject is wanted and confirming extradition.
5. Once located, the fugitive will be brought before the proper court in the jurisdiction where the arrest was made.
6. In the event extradition is waived by the fugitive, the officer(s) will take the subject into custody and return him/her to Rhode Island immediately.
7. Should the subject choose to fight extradition, the officer(s) will notify the Rhode Island Department of Attorney General's Extradition Department, which will be responsible for initiating extradition proceedings and preparing a Governor's Warrant.

D. Warrant Arrest Procedure

1. Bench Warrants

a. When a suspect is arrested by another department:

- i. It will be our responsibility to respond to the arresting agency to pick up the prisoner.
- ii. In most cases, the suspect will be returned to Narragansett for processing, photo and prints, prior to being transported to the ACI. Exceptions would be when the arresting department has charges and will not release the suspect or if other extenuating circumstances exist. The officer-in-charge will make every attempt to return the suspect to Narragansett for processing.
- iii. A report and short narrative will be completed on every Bench Warrant pickup by doing a supplement to the original incident/arrest report which will then be placed in the suspect's case file.

b. When suspect is arrested by our department (only sworn officers may serve arrest warrants):

- i. The suspect will be transported to the station and processed prior to transportation to the ACI. The reporting procedure, outlined above, will be followed.

c. When suspect is arrested by our department on another departments' Bench Warrant:

- i. The suspect will be transported to Narragansett and processed prior to being released and an incident/arrest report will be completed describing the circumstances surrounding the arrest and the disposition.

2. Arrest Warrants

- a. All suspects arrested on an arrest warrant will be brought back to headquarters to be processed and arraigned. Exception: Suspects may be arraigned at another agency when that agency also has charges; however, if the suspect is released he should be brought back to Narragansett to be processed.
- b. The prosecution officer must be notified of the arrest warrant if the suspect is held and remanded to the ACI. An arrest report will be completed on all suspects arrested on an arrest warrant. If another department arrests a suspect on a Narragansett warrant and the suspect is held or remanded to the ACI, the prosecution officer be notified and a supplement to the original warrant number must be done and placed in the suspects case folder.

E. Off-Duty Arrest (Within the Town of Narragansett)

1. Definition:

- a. Personally involved: Where the off duty officer, a family member or a friend becomes engaged in a dispute or incident with the person to be arrested or any other person connected with the incident. This does not apply to situations where the police officer, him or herself, is the victim of a crime.
2. Off-duty officers may make off-duty arrests within the Town of Narragansett. Pursuant to this policy, officers have the authority to enforce criminal laws of the state and ordinances and regulations of the jurisdiction to which they are appointed. However, this is only permitted when any of the following apply:
- a. The arresting officer is him/herself the victim of a crime.
 - b. There is an immediate need for the prevention of a crime or the apprehension of a suspect.
 - c. The crime would be charged as an offense requiring a full custodial arrest.
 - d. The arresting officer is in possession of appropriate police identification.
3. Prohibited off-duty arrests: Police officers of this department may not make an arrest off-duty when any of the following apply:
- a. When engaged in off-duty employment of a non-police nature, and the officer's actions are only in furtherance of the interests of him/herself or the private employer.
 - b. When the arrest is made solely as enforcement of a minor traffic regulation.

F. Off-Duty Arrest (Outside Narragansett)

1. The State of Rhode Island has no statutory law, which grants a police officer of a city or town the general authority to act as a police officer throughout the State at all times.

2. There is no statute in Rhode Island relating to citizen's arrest, but the courts have held that the common law rule allowing such felony arrests would be followed.
3. Off-duty officers, therefore, may not exercise their authority as police officers to arrest outside the Town of Narragansett.
4. Off-duty officers of the Narragansett Police Department have no lawful authority other than that of a private citizen in the neighboring States.

G. Off-duty responsibilities:

1. While off duty within this jurisdiction, it is the responsibility of the police officer to immediately report any suspected or observed criminal activities to on-duty personnel.
2. Except as allowed by this policy, off-duty officers should avoid, when possible, enforcing offenses or minor violations such as harassment, disorderly conduct, or other quality of life offenses.
3. On-duty personnel shall be contacted, in a timely manner, to respond to the situation where an off-duty officer becomes aware of such violations.
4. When an arrest is necessary, the off-duty arresting officer shall abide by all departmental policies and procedures.
5. When an arrest is necessary, the off-duty arresting officer shall identify him/herself as a Narragansett Police Officer, and when practical, present appropriate police identification.
6. Whenever possible, an officer should avoid making an off-duty arrest when he is personally involved in the incident underlying the arrest.

H. Liability protection:

1. The police officers of this police department have liability protection for on and off duty performance of their official duties. However, this protection does not extend to willful acts to cause injury or damage, or to those actions that the police officer knew, or should have known, were in conflict with the established policies or customs of the department.

08 Eyewitnesses

- A. Eyewitness identifications generally do not provide reliable evidence during criminal investigations. Consequently, the Supreme Court has addressed this issue in numerous cases and set forth guidelines to be followed when eyewitness identifications are solicited by officers. See Department Policy #340.12 Line-Ups and Show-Ups (Eye Witness Identification) for guidelines and procedures.
- B. Hearsay
 1. Officers shall understand the rules by which hearsay can be considered evidence and therefore of use in an investigation.

2. According to the Virginia Supreme Court, hearsay is "evidence not proceeding from the personal knowledge of the witness, but from the mere repetition of what he has heard others say."
3. Hearsay is generally inadmissible in court.
4. Some hearsay is useful as evidence. Some exceptions to the Hearsay Rule, and therefore admissible include:
 - a. A dying declaration or a statement, oral or written, made by a mortally wounded person who knows that he is about to die and has abandoned hope of recovery.
 - b. Spontaneous declarations, or exclamations of a participant or bystander concerning an incident, made without time for reflection.
 - c. Public records, or reports prepared by public officials under a duty imposed by law or regulation.

09 Constitutional Requirements: (General)

A. Compliance with constitutional requirements during criminal investigations

1. All officers when conducting criminal investigations shall take all precautions necessary to ensure that all persons involved are afforded their constitutional protections. Officers shall ensure that:
 - a. All statements or confessions are voluntary and non-coercive.
 - b. All persons are advised of their rights in accordance with this general order.
 - c. All arrested persons are taken promptly before a magistrate for formal charging.
 - d. All persons accused or suspected of a criminal violation for which they are being interrogated are afforded an opportunity to consult with an attorney.

By Order of:

Chief of Police