

ARREST WITHOUT WARRANT

POLICY:

It is the policy of the Omaha Police Department (OPD) to use the most efficient and effective process to make an arrest. When a suspect is contacted during the course of an investigation, it is preferable to clear the case through arrest or citation as appropriate to the circumstances. A citation may be issued in lieu of a physical arrest in appropriate circumstances. To justify an arrest or citation without warrant, an officer shall have probable cause to make the arrest. Officers shall adhere to the OPD "[Searches – Private Property and Residences](#)" policy when making a warrantless, non-consensual entry into a private residence/property to make an arrest.

PROCEDURE:

I. Criteria for Lawful Arrest (Probable Cause)

- A. There are two criteria for a lawful arrest that must be present:
 - 1. There is reason to believe that a crime has been committed.
 - AND –
 - 2. There is evidence to establish that the person to be arrested has committed the crime.
- B. Officers may take into account all facts and circumstances when they determine whether probable cause exists to justify an arrest. This may include:
 - 1. Facts based upon any expert knowledge or experience of the officer.
 - 2. Information received from any informant whom it is reasonable under the circumstances to credit, whether or not at the time of making the arrest the officer knows the informant's credibility.
 - 3. The officer may rely on information provided by other officers and from the dispatcher.
 - a. "Probable cause" cannot rest on a "hunch" or "mere belief." Probable cause must be supported by specific information.

II. Physical Arrest Made Without a Warrant

- A. An officer will physically arrest and book a person without a warrant if the officer has probable cause to believe that such person has committed:
 - 1. A felony.
 - 2. A misdemeanor, AND the officer has probable cause to believe that such person:
 - a. Will not be apprehended unless:
 - (1) Immediately arrested.
 - (2) Has no ties to the jurisdiction.
 - OR –
 - (3) Fails to fully and properly identify themselves.

- b. May cause injury to themselves or others or damage to property unless immediately arrested.
 - c. May destroy or conceal evidence of the commission of such misdemeanor.
 - d. Has committed a misdemeanor in the "Presence of the Officer."
 - (1) "Presence of the Officer" indicates that it occurred within one (1) or more of the officer's five (5) senses. It is not required that it be viewed with eyesight.
 - e. Is involved in a Domestic Violence/Protection Order situation.
 - (1) The OPD policies "[Domestic Violence](#)" or "[Protection Orders and Harassment](#)" are applicable.
 - f. Committed the offense of larceny in a retail or wholesale establishment (ex. shoplifting – see the OPD "[Shoplifting](#)" policy for details).
3. One of the following offenses and the property involved is a motor vehicle:
- a. Theft by Receiving Stolen Property ([NRS §28-517](#)).
 - b. Theft by Unlawful Taking or Disposition ([NRS §28-511](#)).
 - OR –
 - c. Unauthorized Use of a Propelled Vehicle ([NRS §28-516](#)).

EXCEPTION: CIB investigators may issue a citation or citation request for the above-listed offenses when the offense is classified as a misdemeanor, when approved by their supervisor.

NOTE: Officers are reminded the ultimate authorization to book juveniles rests with the Juvenile State Probation (Intake) Officer per OPD policies and procedures governing juvenile booking/detention.

III. Felony Arrests

- A. An officer may make a FELONY arrest with probable cause without a warrant.
- B. Officers shall adhere to the OPD "[Searches – Private Property and Residences](#)" policy when making a warrantless, non-consensual entry into a private property or residence to make a felony arrest.

IV. Misdemeanors

- A. When probable cause exists, but a physical arrest is not allowed due to a failure to meet the requirements for physical arrest without a warrant, the officer will attempt to clear the case through citation in lieu of arrest.
 - 1. If an officer intends merely to issue a criminal citation, it is only necessary for the officer to have probable cause that a crime has been committed, and that the person being cited committed the crime.

2. If the officer is assigned to either CIB or the Traffic Unit and the subject to be cited is not present and/or cannot be located, the officer may issue a Citation Request, per the OPD ["Locate Persons and Citation Requests"](#) policy.
- B. If neither physical arrest nor citation is prudent or practical, the completed report will be forwarded with all information regarding "reasonable cause," including complete identification of the person who is suspected. In these cases, the officer may apply for a warrant at a later time.

V. Uniform Patrol Bureau (UPB) Officers' Investigatory Responsibility

- A. UPB officers will make an investigation of all misdemeanor offenses including the following:
1. Identification of the subject and indicating any evidence that may give reasonable cause to arrest.
 2. All witnesses will be completely identified for later contact.
 3. Witness/victim/suspect statements will be documented thoroughly and individually, and the officer's personal observations and actions will be documented thoroughly.
 4. Officers shall not identify witnesses solely by a non-specific descriptor, such as "clerk" or "neighbor," or to group individual witness statements into a single generic statement.
- B. All of this information shall be documented in the Incident Report or Supplemental Reports.
- C. The obligation to continue the investigation on that same shift in misdemeanor offenses is mandatory for the UPB officers within the reasonableness of the geography of the precinct in which they are assigned.
1. If contact can be made with the suspect, the officer will contact the suspect and will make full investigative inquiry regarding:
 - a. Statements about the crime.
 - b. Full identification so that the suspect can be located at a later date.
 - c. If probable cause exists, the officer will issue a citation or physically book the suspect as appropriate to the circumstances. Command approval is required for physical booking. The name and rank of the commanding officer approving the booking will be documented in the narrative of the original Incident Report.
- D. Officers who make arrests after the initial investigation will, when possible, advise the victim that an arrest has been made. This notification will be documented in Supplemental Reports.

VI. Identification

- A. All arrestees (to include citations in lieu of arrest) will be positively identified, to include:
1. Full name.
 2. Address.
 3. Date of Birth.

- 4. Race.
- 5. Sex.
- B. If necessary, it is acceptable to remove a suspect to a separate location for fingerprint identification before issuing a criminal citation.
- C. On rare occasions when identification is not possible, *initial* booking may be under a placeholder name, e.g., John or Jane Doe, until a true identification can be established.

VII. Issuing a Criminal Citation

- A. Officers will follow Nebraska Revised Statute [§29-422](#), which requires citations to be issued in lieu of arrest or continued custody to the maximum extent consistent with the effective enforcement of the law and the protection of the public.
- B. Physical arrest and booking of the suspect is appropriate when a failure to appear or warrant history exists.
- C. Officers will arrest and book suspects for offenses ineligible for citation release.

NOTE: Theft by Receiving Stolen Property ([NRS §28-517](#)) or Theft by Unlawful Taking or Disposition ([NRS §28-511](#)) charges (when the involved property is a stolen motor vehicle) and Unauthorized Use of a Propelled Vehicle ([NRS §28-516](#)) are charges ineligible for citation release, regardless of misdemeanor or felony classification.

EXCEPTION: CIB investigators may issue a citation or citation request for the above-listed offenses when the offense is classified as a misdemeanor, when approved by their supervisor.

- D. Officers will refer to the OPD “[Citations](#)” and/or “[Locate Persons and Citation Requests](#)” policies as may be applicable for procedures on issuing Criminal Citations or Citation Requests.

REFERENCES:

I. Nebraska Revised Statutes

- A. Nebraska Revised Statutes [§29-402](#), [29-402.01](#), [29-402.02](#), [29-402.03](#), [29-422](#), [28-511](#), [28-516](#), and [28-517](#) are referenced in this policy.

II. Previous OPD Orders

- A. Previous General Orders: #23-96, 24-02, 29-08, 14-12, 6-14, 88-17, 31-18, 75-21, and 18-22.

III. Accreditation Standards

- A. CALEA Accreditation standards 1.2.5, 1.2.6, and 1.2.7 are relevant to this policy.