

# BATON ROUGE POLICE DEPARTMENT

General Order  
No.209

Effective Date  
11-01-1994

Revised Date  
09-01-2016

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Subject: Arrests

Reviewed 9/1/16

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## POLICY

The authority to take someone into custody for violating a law or ordinance is found in the Louisiana code of criminal procedure (**La.C.Cr.P.**). The following procedure should explain the legal basis for making arrests and issuing summons. For specific language consult the cited articles. Contact a supervisor or the legal advisor's office if there are any further questions.

Officers should responsibly exercise discretion. While the mandate to arrest or summons is obvious in most cases, there will always be a few cases, involving minor violations and unusual circumstances, where a warning or discussion with the parties involved may be sufficient. In all cases, officers are urged to base their use of discretion on fairness, common sense and sound judgment. Officers should keep in mind the goals of the Department and the best interests of the citizens we serve.

## PROCEDURES

### **I. Arrest**

- A. Arrest is the taking of one person into custody by another (**La.C.Cr.P.** Art. 201). An arrest may be made on any day and at any time of the day or night, and at any place (**La.C.Cr.P.** Art. 216).
- B. The facts and circumstances that would lead a reasonable man to conclude that a crime was committed and the defendant was responsible determine probable cause.
- C. Arrests made by officers of this department will be based on probable cause.
- D. Officers are allowed to summon assistance from civilians, if necessary, in order to effect an arrest (**La.C.Cr.P.** Art. 219). There is no legal requirement that the citizen cooperate, and no criminal penalty if he refuses to help.

### **II. Arrest with a Warrant**

- A. Officers of the Department are expected to follow the guidelines set forth in the **La.C.Cr.P.** Articles 204, 205, and 217.
  - 1. Officers will inform the person to be arrested of the fact that a warrant has been issued for his arrest, unless it is impractical to do so.
  - 2. The warrant, or a copy, will be shown to him as soon as practical.
- B. A warrant of arrest remains in effect until executed. Officers should confirm the warrant is still valid before taking a person into custody.
- C. Officers will execute warrants from other jurisdictions in the same manner as a warrant issued in this jurisdiction.

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**III. Arrest without a Warrant**

- A. Officers are expected to comply with the following procedures as found in the **La.C.Cr.P.** Articles 213 and 218.
  - 1. Officers may arrest a person without a warrant when the officer observes the offense whether it is a misdemeanor or a felony. Misdemeanor arrests should be made immediately or on close pursuit.
  - 2. Officers may arrest a person who has committed a felony even though the officer did not witness the crime.
  - 3. Officers may make arrests without warrants based on probable cause.
  - 4. Officers may arrest a person when they have received positive and reliable information that another officer from this state has an arrest warrant for the suspect for any offense. Or, an officer of another state or the United States has an arrest warrant for the suspect for a felony offense.
  - 5. Officers in close pursuit of a person to be arrested may enter another jurisdiction in this state and make the arrest.
- B. As soon as practical, officers will inform the person that he or she is under arrest and the reason for the arrest or charges.

**IV. Escape and Re-arrest**

- A. Officer may pursue the escapee into another jurisdiction (within the state) if necessary, to re-arrest (**La.C.Cr.P.** Art. 227).
- B. In attempting to prevent the escape of a prisoner, officers are authorized to use reasonable force (**La.C.Cr.P.** Art. 227.1).
- C. The use of deadly force would be justified only in immediate defense of the officer's life or the life of another.

**V. Use of Force to Effect an Arrest**

- A. A person being arrested has a legal duty to submit to a lawful arrest. An officer making the arrest has the authority to use reasonable force to overcome any resistance or threatened resistance (**La.C.Cr.P.** Art. 220).
- B. This is based upon lawful arrests and would not apply to an arrest found to be unlawful or illegal.
- C. Use of force guidelines are found elsewhere in the manual.

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## VI. Use of Restraints

- A. An arrestee or suspect may be physically restrained, if necessary. Officers may also restrain someone while investigating suspicious circumstances. This generally means being handcuffed. In some cases leg restraints will also be necessary. Any restraint should be applied consistent with the officer's training.
  - 1. Handcuffs should be placed on both of the suspect's hands while they are behind his or her back, then double locked. Placing handcuffs on someone does not constitute a use of force unless they are used to stop resistive behavior.
  - 2. Suspects will not be handcuffed to any objects except the bars designed for that in a detention facility.
  - 3. Arrestees will be handcuffed while being transported in police units consistent with established procedure.
  - 4. Officers will file a written report any time a person is placed in handcuffs and later released.

## VII. Arrests by Citizens

- A. Although it is unusual to encounter, officers should be aware that citizens are given the authority, in certain instances, to effect arrests. This is only applicable in felony cases.
- B. Once a citizen has arrested someone, he or she must turn the arrestee over to a police officer. If confronted with this situation, officers should establish the facts and determine if an arrest or summons is warranted. In any case, the incident should be documented in a written report.

## VIII. Arrest and Detention of Shoplifters

- A. The owner of a store or an authorized employee (including officers working extra-duty) may use reasonable force to detain a person for shoplifting. This does not constitute an arrest. The detention should not exceed one hour, unless it is reasonable the suspect should be detained longer (**La.C.Cr.P** Article 215).
- B. A signal from an electronic device used to detect shoplifting constitutes a sufficient basis to detain the person.
- C. A complaint by a merchant or an employee will constitute reasonable cause for an arrest. However, officers are encouraged to independently determine if probable cause exists before making an arrest.
- D. Merchants may detain suspected shoplifters, but not search them. The investigating officer should do the search based on probable cause or a legal exception (consent, incidental to arrest, etc.).

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**IX. Criminal Summons**

- A. The basis for issuing a summons in misdemeanor arrests is found in the **La.C.Cr.P** Art. 211. To do so officers should have a reasonable belief the suspect will come to court. Officers should also be able to identify the suspect. There should also be a reasonable belief the suspect will not hurt someone, damage property or continue committing the crime for which he or she was charged. In any case, a warrant may be issued later, if need be.
- B. Officers must issue a summons for misdemeanor crimes if all of the above conditions are met. Summonses should also be issued for Criminal Trespass, Issuing Worthless Checks, and Littering (**La.C.Cr.P** Art. 211.1, 211.2, and 311.3).
- C. It is not always necessary for the subject to have picture identification. He or she may be properly identified by other means such as identification by family, other officers or even the victim.
- D. Violators are not required to sign a misdemeanor summons (**La.C.Cr.P** Art. 210). If a suspect refuses to sign, note that on the summons. If the circumstances indicate the suspect will not meet the conditions above, arrest the suspect for the underlying criminal violation.
- E. Check to see if the suspect is wanted for other criminal violations before releasing him or her with a summons.
- F. Criminal summons may be issued for the following felony offenses if arrestee meet the criteria for the issuance of a summons:
  - 1. LRS 14:71 - Issuing Worthless Checks (C.C. Pro. Art. 211.2)
  - 2. LRS 14:67 - Felony Theft / \$ 750.00 or less (C.C. Pro. Art. 211)
  - 3. LRS 14:69 - Illegal Possession of Stolen Things (C.C. Pro. Art. 211)

**X. Arrests by Off-Duty or Administrative Personnel**

- A. While off-duty, it is the responsibility of officers to report any suspected or observed criminal activities to authorities. When it is necessary to make an arrest or issue a summons while off-duty, officers will exercise extreme caution and use the utmost discretion.
  - 1. Off-duty officers will report their observations to Communications by telephone or radio.
  - 2. If enforcement action is necessary, request assistance from on-duty officers if situation permits. If the situation requires immediate action, the off-duty officer will contact an on-duty officer as soon as possible.

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3. Off-duty officers are expected to take action to protect life and property. If an arrest is made, the arresting officer will complete the Affidavit of Probable Cause before releasing the prisoner to on-duty personnel. The transporting officer will complete the procedure and book the arrestee. The arresting officer will complete the report during his or her next tour of duty.
  4. Officers who are in their personal vehicle should not attempt to stop traffic violators. Serious violations should be reported to Communications.
- B. Officers who are assigned to administrative or support functions are expected to take enforcement action if they observe a crime being committed. If this results in a custodial arrest, the officer will notify Communications and request a unit for transport.
1. The arresting officer will complete the Affidavit of Probable Cause and Arrestee Information Form prior to releasing the prisoner to field personnel. The transporting officer will then process the arrestee as per normal procedure. The arresting officer will complete the required reports.
  2. If the arresting officer has a unit equipped with a prisoner screen he may transport the arrestee to the closest precinct to meet the on-duty unit.

**XI. Arrests Outside of Jurisdiction**

- A. Sworn officers of this department have no police powers outside the boundaries of the City of Baton Rouge. Officers are prohibited from making arrests other than felony arrests executed as civilians.
- B. This excludes those officers with special commissions allowing them to exercise police powers outside of their normal jurisdiction.