



MYRTLE BEACH POLICE DEPARTMENT

ADMINISTRATIVE REGULATIONS AND OPERATING PROCEDURES

Subject: *Arrests*

Number: *301-B*

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Rescinds: *Police Department Policy 500, No. 500 – 513*
301 Arrests
301-A Arrests

Dated: *1977*
January 1, 2001
April 01, 2014

Approved By:

PURPOSE

To establish procedures and guidelines for employees of the Myrtle Beach Police Department for making a lawful arrest with or without a warrant.

POLICY

It is the policy of the Myrtle Beach Police Department to adhere to all applicable constitutional requirements as they pertain to the scope and limits of enforcement authority.

ARRESTS

Officers are responsible for making a legal arrest and handling the arrest in a lawful manner.

I. Warrantless Arrests:

- A. Officers may arrest persons in their presence without a warrant when they have reason to believe that a crime has been freshly committed or is being committed by the person to be arrested.
- B. Officers may arrest without warrant for offenses committed in their view.
- C. An officer may arrest a person without a warrant for a felony, whether the crime is committed in his/her presence or not. All crimes classified as felonies are listed in Section 16-1-10 of the South Carolina Code of Laws.
- D. A warrantless arrest for a felony not committed in the officer's presence is valid if it is based on probable cause. Probable cause is more than suspicion but less than actual proof.

- E. An officer may NOT arrest a person without a warrant for misdemeanors not committed in his presence, except for limited exceptions as provided by law, such as the Domestic Violence Act.
- F. A crime is committed in the presence of an officer when the officer obtains facts through their senses (sight, touch, hearing, smell and taste) which cause them to reasonably believe a crime is being committed or has been freshly committed.
- G. If two or more officers individually observe a person commit part of a misdemeanor and keep themselves informed by radio communication, it is said that each officer possesses knowledge of the whole event and either one may effect an arrest of the offender.
- H. If a misdemeanor arrest warrant is in the personal possession of an officer, any other officer who has received verbal confirmation of such possession may affect the warrantless arrest of the offender named in the warrant.
- I. An officer can make forcible warrantless entry into a residence or other building without an arrest warrant to:
 - 1) Arrest a person who has committed a misdemeanor or felony in the presence of the officer.
 - 2) The officer should not make warrantless entry while trying to arrest an offender unless he is in pursuit of the offender immediately after the crime is committed.
- J. Following a lawful arrest, an officer may conduct a search of the person arrested and the area within his immediate control without a search warrant. See current version of regulation 239 for search specifics.
- K. Officers are responsible for the safety, protection, and property of any person in custody.
- L. Officers shall not use profanity, mistreat, embarrass, humiliate or ridicule any person in custody after the arrest. Any gesture, sound or action that might tend to incite a person to resist any officer is prohibited.
- M. Officers are to be governed by the circumstances regarding transportation of prisoners. Generally, an arrested person should be handcuffed with their hands behind their back and secured with a seat belt in the back seat of a patrol vehicle equipped with a safety shield barrier unless justifiable circumstances preclude. Deviation may require explanation if problems arise. Prisoners transported in the transport van

will not be handcuffed unless an escorting officer accompanies them and/or the transport van is equipped with a safety restraint device.

- N. Every prisoner is to be searched before being transported unless justifiable circumstances preclude the search. Under such circumstances, a search is to be conducted as soon as practical. Information that the prisoner has NOT been searched MUST be communicated to the transport and/or detention personnel receiving the prisoner.
- O. Officers should immediately remove any person(s) from the immediate area of the arrest when practical. Officers are not to stand and discuss or haggle over an arrest; in some areas, this may tend to bring about a crowd or create further problems.
- P. Officers cannot escort a prisoner to their home, room or elsewhere prior to being transported to the Police Department.
- Q. Officers shall be responsible to see that any injured arrestee(s) or prisoner(s) requiring emergency medical treatment receives appropriate assistance. Any unconscious person must be examined by a physician before being confined. The officer transporting any sick or injured person to an emergency station or hospital is responsible for their custody until relieved by a competent authority. The officer's responsibility is not completed until returning the arrestee(s) or prisoner(s) to a secure detention facility.

II. Arrests with a warrant

For arrests made with a warrant, see the current version of MBPD regulation 405 (*Arrest Warrants: Storage, Tracking, Service, Purging and Disposal Procedure*).

III. Pre-arraignment Confinement

- A. If someone is arrested on probable cause and before their arraignment, further investigation determines that sufficient probable cause no longer exists; a supervisor will be immediately notified.
- B. Once approved, a City Court Judge shall be notified and the arrested suspect must be released as soon as possible.
- C. A detailed report of the arrest will be completed outlining the events that led to the probable cause for the arrest. A supplemental report will also be completed that outlines the information learned that establishes the belief that probable cause no longer exists.

D. In all such cases, the Chief of Police or his designee shall be notified.

IV. When Persons Are Not To Be Arrested

- A. South Carolina Code of Law §17-13-60 gives immunity from custodial arrest (except in cases of treason, felony, or breach of the peace) to persons under the following conditions:
- 1) While actually engaged in or attending military or militia duty or going to or returning from such duty.
 - 2) While attending, going to or returning from any court, as party or witness or by order of the court except for indictable offenses.

V. Right To Be Informed of Reason for Arrest (SC Code of Laws §17-13-50)

- A. Every person arrested by virtue of process or under any other circumstances by an officer in this state has a right to know from the officer who arrests or detains them, the true reason the arrest was made.
- B. Once the scene is safe and the subject(s) are secure, the officer will notify the arrestee(s) of the reason for their arrest.
- C. Officers are prohibited from:
- 1) Refusing to answer a question regarding the reason for arrest; or
 - 2) Answering any such question untruthfully; or
 - 3) Giving the arrestee a false reason for the arrest.