

CITY OF ANDERSON POLICE DEPARTMENT

Anderson, South Carolina

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| SUBJECT ARREST PROCEDURES (With and without a warrant) | | |
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106 ARREST PROCEDURES WITH and WITHOUT A WARRANT

The purpose of this policy is to establish departmental arrest procedures for lawful arrests with and without warrants in compliance with the South Carolina Code of Laws and the South Carolina Rules of Criminal Procedure while protecting the Constitutional Rights of all persons under custodial arrest.

It is the policy of the City of Anderson Police Department that arrest and citation of offenders by officers of the City of Anderson Police Department will follow and comply with the provisions of Volume 8, Chapter 13 of Title 17 of the South Carolina Code of Laws and the South Carolina Criminal Rules and Traffic Rules.

The Jurisdiction for City of Anderson Police Department officers is defined Pursuant to Section 17-13-40 of the South Carolina Code of Laws. It states that municipal police officers of this State may make arrests of all offenders against the municipal ordinances and statutes of this State committed within the corporate limits or at any place within Anderson County, with or without a warrant, when such police authorities are in pursuit of such offender.

- A. **Arrests Without a Previously Issued Warrant/Authority:** Pursuant to Section 17-13-30 of the South Carolina Code of Laws, any certified officer of this State (within their jurisdiction) may arrest without a warrant any and all persons who, within their presence, commit a violation of law, or have just committed a violation of law. An officer may arrest a person without a warrant when they have reason to believe that crime has been, or is being committed by the person to be arrested.

(NOTE: Presence is defined by law as anything that can be perceived by an officer's senses: sight, hearing, smell, touch, and taste.)

1. A crime is committed in the presence of an officer when the officer obtains the facts through his senses (sight, touch, hearing, smell, and taste), which causes him to believe a crime is being committed or has been "freshly committed".
 2. 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 misdemeanor.
 3. If two or more officers individually have the knowledge of the existence of a misdemeanor arrest warrant for any person, and the warrant is in possession of one of them, any other officer in radio contact with the officer holding the warrant may effect the arrest of the misdemeanor.
 4. **Felony:** An officer, with probable cause, may arrest a person without a warrant for a felony, whether the crime is committed in his presence or not. All crimes classified as Felonies are listed in the Section 16-1-10, of the South Carolina Code of Laws.
 5. **Misdemeanor:** The general rule in South Carolina is that 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. However, where the officer arrives at the scene very shortly after the commission of a crime, and easily observable evidence strongly indicates that a crime was "freshly committed", or in Criminal Domestic Violence cases where probable cause exists, the officer may arrest without a warrant.
- B. **Alternative to Warrant:** Pursuant to 56-7-15 of the South Carolina Code of Laws, the Uniform Traffic Ticket, established under the provisions of Section 56-7-10, may be used by law enforcement officers to arrest a person for an offense committed in the presence of a law enforcement officer if the punishment is within the jurisdiction of magistrate's court or Municipal Court.
- C. **Warrant Required:** If a Uniform Traffic Ticket cannot be utilized, then a warrant must be obtained.
- D. **Right To Be Informed of Reason for Custodial Arrest:** Pursuant to South Carolina Code of Laws Section 17-13-50, every person arrested by virtue of process, or under any other circumstance by an officer in this State, has the right to know from the officer who arrests him/her, the true reason on which the arrest was made.

1. An officer who:
 - (a) Refuses to answer such a question regarding the reason for such arrest;
 - (b) Answers such questions untruthfully;
 - (c) Gives to the person arrested a false reason for such an arrest; or
 - (d) Neglects to show the person arrested, or to any person acting on his behalf, the law which calls for such an arrest when requested,shall be punished for a misdemeanor.

E. Arrests For Previously Issued Warrants: Authority to Arrest: Only sworn police officers shall execute criminal warrants. It is also the duty of all police officers to obey and execute all warrants and other processes issued. (S.C. Code of Laws Section 16-5-40).

1. **Arrest Warrants:** Criminal warrants include all warrants issued by Municipal Court Judges, Administrative Recorders, and Magistrates. This can only occur as a result of sworn testimony given to them, by affidavit, of a Law Enforcement Officer, or citizen, who states that a violation of City of Anderson Ordinances, or South Carolina Laws have been committed.
2. **Bench Warrant:** Bench warrants are warrants that are issued by direct order of a judge who may be presiding in the General Sessions, Common Pleas, Family Court, Magistrates Court or Municipal Court. These warrants are usually issued because a defendant failed to comply with a judge's order or sentence.
3. When a defendant is arrested pursuant to a bench warrant, he/she is incarcerated. Generally no bond is allowed, and the defendant is held in custody until called for by the issuing court. The warrant will specify.
4. A copy of the bench warrant is given to the Jail/Detention Center in lieu of a commitment order as authority to hold the defendant, if no bond is allowed.
5. **Location of Warrant:** When an officer arrests an individual pursuant to a misdemeanor warrant, he must have the warrant in his possession or have its location verified and where it can be obtained within a reasonable period of time.
6. **Copy of Warrant Provided to Defendant:** Pursuant to Section 22-5-210 of the South Carolina Code of Laws whenever the warrant is served on the

defendant, the arresting officer will ensure that the defendant is given a copy as soon as practical. The officer must fill out the "return" section of the warrant.

7. **Supervisory Review:** Officers must contact a supervisor for review of those arrests in which the prisoner:
 - a. Has obvious physical injuries or claims to have been physically abused by police at the time of arrest.
 - b. Is charged with Assault on a Police Officer or Resisting Arrest.
 - c. Is refused admission to the City of Anderson Police Department Jail due to injuries.
 - d. Requires interview or observation by a supervisor as necessitated by other procedures (use of force or chemical agent, etc.)
- E. **Fugitive Warrant:** A Fugitive Warrant can be issued by any court of this state (authorized to issue criminal warrants) for the arrest of any person who is in this state and is accused by another state of having committed, in that state, an offense punishable either by death, or by imprisonment for one year or more.
1. The warrant is issued after satisfactory information is given under oath to a Municipal Judge or Magistrate establishing probable cause for the issuance of a warrant. Such probable cause usually consists of either a certified copy of the requesting state's warrant, or a teletype message, sent to your department by the requesting state. An officer in this state has no authority to act under a warrant issued by any court of another state.
 2. An officer can make an arrest of a Fugitive, if probable cause exists. In these cases, primary criteria in establishing probable cause is the determination that the identity of the wanted person and the subject you have are the same, and the want and warrant are still valid, and confirmation that the listing agency will extradite.
- F. **Military Writ:** A Military Writ issues from a Military Court, and it is the equivalent of a Bench Warrant. The writ is issued after the person named in the writ has failed to appear for a Military Court Hearing as ordered. The writ authorizes the apprehension and detention of the defendant until he/she can be picked up by military authorities.
1. Persons arrested pursuant to a Military Writ are processed in the same manner as one arrested by service of an arrest warrant, insofar as reports and identification procedures are concerned, except that the military personnel arrested on a Writ are placed directly into the Jail/Detention Center to await pick-up by Military authorities.
- G. **Absent With Out leave (AWOL) Notice:** An NCIC AWOL Notice informs law enforcement agencies that subject has been on an Unauthorized Absence for thirty

days or longer and is considered a deserter from Military Duty, and requests the apprehension of the subject. If the AWOL status is shown in NCIC, the full ten minute hit policy should be followed, per NCIC regulations, to confirm the person being detained will be picked up.

1. Once confirmation has occurred, the subjects will be taken into custody and transported to the Jail/Detention. A copy of the teletype will serve as a commitment.
2. The teletype will contain the nearest contact point for notification of that branch of services Apprehension Team, including telephone number. The arresting officer will advise communications who will then contact them.

By order of:



Martin D. Brown, Chief of Police

3-6-2006
Date