

April 8, 2010

**CITY OF FERGUSON  
OFFICE OF THE CHIEF OF POLICE**

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**POWERS OF ARREST, ARRESTS AND DETENTIONS**

408.00 PURPOSE

The purpose of this General Order is to establish authority and procedures for arrest of individuals for State and Municipal law violations and to provide police officers with guidelines for making arrests (on duty or off duty) outside of the City of Ferguson.

408.01 AUTHORITY

Officers will make arrests based on the following authority:

- A. Missouri statute 544.216 grants law enforcement officers the authority to arrest a person, based upon probable cause leading the officer to believe that the person has violated any state law including misdemeanors and local ordinance violations. The offense need not be committed in the officer's presence.
- B. Ferguson City Ordinance 33-22 which States "(a) Every police officer in this city may arrest on view, and without a warrant, any person he sees violating or who he has reasonable grounds to believe has violated any law of this state, including a misdemeanor, or has violated any section of this Code or other ordinance of the city over which the officer has jurisdiction.

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408.02 DEFINITION

“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 is a victim of crime.

408.03 POLICY

In general, officers have the authority to make arrests for felony and misdemeanor violations of state statutes (not city or county ordinance violations) in the following first class counties: Clay, Jackson, Buchanan, Boone, Greene, Franklin, Jasper, Jefferson, Platte, St. Charles, St. Louis and in the City of St. Louis. The authority to make arrests outside of the city of Ferguson is extended only to paid, full-time police officers.

Officers have discretionary arrest powers as to when a custodial arrest will be made based on probable cause for felonies and misdemeanors except where mandated by law, e.g. domestic disturbance. Officers should take into consideration the totality of circumstances regarding arrests such as the threat to public safety, flight from jurisdiction, and the conduct of on-going investigations to determine if an arrest should be made immediately or after warrant application.

408.04 PROBABLE CAUSE:

All arrests must be based on probable cause. Probable cause for an arrest is the existence of facts and circumstances which, at the moment of arrest, give the officer reasonable grounds to believe that a crime has been or is being committed, and that the suspect is the perpetrator.

Officers have the power to make arrests outside the Ferguson city limits.

408.05 TEMPORARY DETENTION:

Temporary detention of a subject is not an arrest.

- A. A police officer may approach an individual for purposes of investigating possible criminal behavior even though there is no probable cause to make an arrest. This investigative detention should be brief, and its purpose is restricted to obtaining information regarding possible criminal activity.
- B. Suspects will only be taken into custody and brought to the station when probable cause exists to arrest.

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**408.06 ALTERNATIVES TO CUSTODIAL ARREST:**

Sworn officer have authority to use alternatives to arrest, e.g., citations, summonses, referral, informal resolution, and warnings, to address the variety of problems they confront.

JUVENILES: Officers dealing with juvenile offenders shall use the least coercive of all reasonable alternatives consistent with preserving public safety, order, and individual liberty. "Parens patriae" is the doctrine that the state takes the role of a parent in handling juveniles rather than maintaining an adversarial position with the child. Law enforcement officers should understand that under this doctrine they should seek use of the least forceful alternative at their disposal, one that will accomplish both the law enforcement goal and safeguard the welfare of the juvenile offender.

**408.07 ARRESTING OFFICER:**

The arresting officer, in many instances, is not the primary officer responsible for the investigation of a reported crime.

- A. The primary investigating officer is the officer who has been directed to write a report concerning a crime, and whose responsibilities include investigating the offense, making an arrest when possible, and applying for the appropriate warrant.
- B. Whenever an officer is directed to investigate an incident, he will remain the primary investigating officer until such time that he is relieved of this responsibility by someone with the authority to take over the investigation.

**408.08 ON DUTY ARRESTS WITHOUT WARRANT**

Arrests should only be made when:

- A. There is an immediate need for the prevention of a crime, protection of persons or apprehension of a suspect; and
- B. The officer has probable cause to arrest; and
- C. The arresting officer is in possession of his badge, police identification card, and weapon.

**408.09 WARRANT ARRESTS**

The arresting officer shall notify the local jurisdiction in advance of the arrest attempt, and determine if they want one of their own officers present. Notification should be made in sufficient time for an officer of the jurisdiction to respond and be present during search warrant execution.

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**408.10 OFF-DUTY ARRESTS**

Off-duty police officers are often faced with situations involving criminal conduct that they are neither equipped nor prepared to handle in the same manner as if they were on duty.

- A. Except as allowed by this policy, off-duty officers should not make arrests for minor offenses. Local on-duty personnel should be contacted to respond to the situation where an off-duty officer becomes aware of such violations.
- B. Where an arrest is necessary, the off-duty arresting officer will abide by all departmental policies and procedures.

**408.11 PERMITTED OFF-DUTY ARRESTS**

When off-duty, a police officer may make an arrest only when:

- A. The arresting officer is not personally involved in the incident underlying the arrest unless the officer is the victim of a serious felony or misdemeanor where injury or harm has occurred; and
- B. There is an immediate need for the prevention of a crime or apprehension of a suspect; and
- C. The crime would normally require a full custodial arrest; and
- D. The arresting officer is in possession of proper police identification.

**408.12 USE OF PERSONAL VEHICLES**

Officers in their personal vehicles, shall not stop or attempt to stop other vehicles.

**408.13 PROHIBITED OFF DUTY ARRESTS**

Officers may not make an arrest off duty when;

- A. The arresting officer is personally involved in the incident underlying the arrest except as authorized in section 408.11 A.
- B. Engaged in secondary employment of a non-police nature, and the officer's actions are only in the interest of the private employer.
- C. When the violation is a minor traffic offense.

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**408.14 NOTIFICATION**

Officers who make off-duty arrests outside of the City of Ferguson are required to notify their supervisor as possible after the arrest is made.

- A. Except in emergency situations, officers are required to notify the local jurisdiction of a planned arrest in sufficient time for local officers to be present at the arrest. In emergency situations, the local jurisdiction should be notified as soon as possible after the arrest.
- B. The on-duty supervisor should notify the division commander of an arrest outside the City of Ferguson.

This jurisdiction maintains liability protection for police officers performing their official duties, provided there is no willful act to cause injury or damage, and the officer acted in a manner which the officer knew, or reasonably should have known, was not in conflict with department policy.

**408.15 BOOKING PROCEDURES.**

- A. On duty or off-duty arrests: Prisoners arrested outside of the arresting officer's geographic jurisdiction should be booked at the law enforcement agency whose jurisdiction includes the location of arrest. If the arrest is for a crime that occurred within the jurisdiction the normal charging procedures of that agency should be followed.
- B. If the arrest is for an offense that occurred in another jurisdiction the booking should be for fugitive from that jurisdiction on the appropriate charge. If the law enforcement agency with jurisdiction declines to allow the booking of a prisoner, the arresting officer may, with the approval of his department, book the prisoner at his agency if it is within the same county. If this option is denied, the officer should release the prisoner and seek a warrant.
- C. Officers should not use their private vehicles for conveying prisoners unless exigent circumstances exist that prevent the officer from seeking local police response from or near the location of arrest.

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408.16 WARRANT APPLICATION

- A. On or off-duty arrests: Warrants should be applied for at the offices of the prosecuting/circuit attorney of the county in which the offense occurred.
- B. Warrant application should be made as soon as possible after the arrest is made.

By order of:

A handwritten signature in cursive script that reads "Colonel Thomas Jackson". The signature is written in dark ink and is positioned above the printed name and title.

COLONEL THOMAS JACKSON  
Chief of Police

Distribution

All Department Personnel