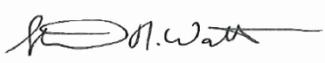


OGDEN CITY POLICE

Office of the Chief

Policy No: 07

Subject	Effective Date
Arrest and Custody	November 2, 2020
Department	Replaces Policy Dated
Police	February, 2018
Division	Review Date
All Police Personnel	November 2022
Authorized Signature	
	

NOTE: This rule or regulation is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this agency, and then only in a non-judicial administrative setting.

I. PURPOSE

- A. This policy defines the authority of Ogden Police Department Officers to arrest an individual in accordance with applicable law, and the mechanism for making arrests with and without a warrant.
- B. To establish procedures for custody following an arrest.

II. POLICY

- A. An arrest is a serious police action. Officers will accordingly exercise critical judgement in making arrests.
- B. Arrest is an emotional experience, therefore, Ogden Police Department Officers must recognize that subjects under arrest or in custody are capable of sudden extreme acts result in danger to themselves, the involved officers, or others, and may be emotionally disturbed by the series of events leading up to their arrest.
- C. This policy recognizes circumstances occasionally exist precluding the officer from making an arrest that would otherwise be appropriate.

III. DEFINITION

An arrest is an actual restraint of the person arrested or submission to custody. The arrested person will not be subjected to any more force or restraint than is necessary for effecting the person's arrest and detention.

IV. PROCEDURE

A. Search

1. All persons who have been arrested or taken into custody will be searched by the arresting officer and by each officer who accepts custody of that person.
2. If transportation of the prisoner is by vehicle, the search will be accomplished before the prisoner is placed in a vehicle.
3. The transporting officer will ensure the vehicle is free from potential weapons prior to transporting an arrested person. After transporting, the officer will again search the vehicle to ensure the prisoner did not hide contraband or other evidence in the vehicle.
4. Strip searches/body cavity searches will not be done by members of the Ogden Police Department unless authorized by court order and approved by the Watch Commander.
5. A thorough search also mandates the search of packages, purses, sacks, overcoats and any other items which fall within the legal categories allowed under searching incident to arrest. This includes the inventory search of the vehicle of an arrested person in accordance with applicable law.

B. Restraint

1. All persons arrested or in custody will be handcuffed behind their back in accordance with techniques standardized by the Utah P.O.S.T. and taught through OPD authorized in-service training, unless a physically limiting condition on the part of the arrested person prohibits this. Handcuffs will only be removed when the subject has been delivered to the personnel of the appropriate secure facility. The only exception will be when it is necessary to interview or test the subject, however, the officer will create a safe environment prior to removing the handcuffs by removing the availability of firearms or other weapons from within the reach of the subject. At no time while a subject is in custody will an officer allow a subject to move around unsupervised.

2. Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest, or transportation. Only restraint devices approved by the department shall be used. During lengthy transportations or extraditions, waist belt restraints will be used with handcuffs. In determining whether to use the leg restraint, officers should consider:

- a. Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- b. Whether it is reasonably necessary to protect the suspect from their own actions (e.g., hitting their head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- c. Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

3. When applying leg restraints, the following guidelines should be followed:

- a. Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- b. Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on their stomach for an extended period, as this could reduce the person's ability to breathe. Transporting face down on an ambulance gurney is permissible when attending medical personnel deem it necessary.
- c. The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll and remain on their stomach.
- d. The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- e. When transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).
- f. The leg restraints will not be used to secure prisoner's legs to fixed positions inside a vehicle as this could result in serious injury in the event of an accident.

4. The following guidelines should be followed when applying "The WRAP" restraint system:
 - a. A minimum of two officers is required to safely apply "The WRAP" restraint system. When possible, three officers should be utilized to maximize officer and subject safety.
 - b. Once secured in "The WRAP" restraint, the vest harness shall be connected to the lower restraint and adjusted such that the subject is placed in a seated or upright position. Transport in a flat position on an ambulance gurney is permissible when attending medical personnel deem it necessary.
 - c. Handcuffs may be attached to one of "The WRAP" restraint system's security rings if deemed necessary
 - d. When utilizing "The WRAP" restraint system, the seat belt shall be used in conjunction with "The WRAP" restraint system

C. Jurisdiction

1. Peace Officers have statewide authority. Any Peace Officer duly authorized by any governmental entity of this state may exercise a Peace Officer's authority beyond the limits of such officer's normal jurisdiction, as follows:
 - a. When in fresh pursuit of an offender for the purpose of arresting and holding that person in custody or returning the suspect to the jurisdiction where the offense was committed;
 - b. When a public offense is committed in such officer's presence;
 - c. When participating in an investigation of criminal activity which originated in such officer's normal jurisdiction in cooperating with the local authority;
 - d. When called to assist Peace Officers of another jurisdiction.
2. Any Peace Officer, prior to taking such authorized action, will notify and receive approval of the local law enforcement authority, or if such prior contact is not reasonably possible, notify the local law enforcement authority as soon as reasonably possible. Unless specifically requested to aid a police officer of another jurisdiction or otherwise as provided for by law, no legal responsibility for a police officer's action outside their normal jurisdiction and as provided herein will attach to the local law enforcement authority.

D. Statute per Daytime/Nighttime/No-Knock

1. A felony arrest warrant may be served at any time of the day or night, with the following restrictions:
 - a. Supervisory review by the Bureau Commander or Watch Commander is required of all felony arrest warrants served at a residence between 10:00 p.m. and 6:00 a.m. that do not involve circumstances involving the immediate or fresh pursuit of an offender or the person to be arrested is encountered by a Peace Officer in the regular course of that Peace Officer's investigation of a criminal offense unrelated to the warrant for arrest.
 - b. Facts to be considered include the type of offense, the benefit of immediate apprehension vs. the risk of serving the warrant at night, and the risk of danger to the community if the warrant is not immediately served.
 - c. In the instance where a warrant, felony or misdemeanor, is to be served in another jurisdiction, the officer or a supervisor will ensure the Ogden Police Department Watch Commander and the ranking supervisor of the other jurisdiction is notified.
 - d. A supervisory review of available information is conducted concerning the address of the offender, criminal history of the offender, and any known facts that would warrant extra caution such as, history of violence towards police, possession of weapons, mental illness, etc.
 - e. Where a Sergeant is filling in for the Watch Commander, the Sergeant will inform the off-going or oncoming Watch Commander of the event prior to serving the warrant unless exigent circumstances exists.
2. A misdemeanor arrest warrant may be served between 10:00 p.m. and 6:00 a.m. only if:
 - a. A magistrate has endorsed authorization to do so on the warrant.
 - b. The person to be arrested is upon a public highway or in a public place open to or accessible to the public.
 - c. The person to be arrested is encountered by a Peace Officer in the regular course of that Peace Officer's investigation of a

criminal offense unrelated to the misdemeanor warrant for arrest.

E. Arrest with a Warrant

1. An arrest warrant may be issued by any magistrate or judge of any district court, juvenile court, or justice court.
2. A magistrate or judge may issue a warrant for arrest upon finding probable cause to believe that the person to be arrested has committed a public offense.
3. If the magistrate determines that the accused must appear in court, the magistrate will include in the arrest warrant the name of the law enforcement agency in the county or municipality with jurisdiction over the offense charged. The warrant must not be too general or leave too much discretion to the officer to decide which suspect to arrest.
4. Any Peace Officer who has knowledge of an outstanding warrant of arrest may arrest a person the Peace Officer reasonably believes to be the person described in the warrant, without the Peace Officer having physical possession of the warrant.
5. The officer need not have possession of the warrant at the time of arrest, but upon request will show the warrant to the defendant as soon as practicable.
6. If the officer does not have possession of the warrant at the time of the arrest, the arrested person will be informed of the charges and the fact that a warrant exists.
7. A warrant will be executed by a Peace Officer at any place within the State where the circumstances surrounding the warrant service meet legal requirements. Absent exigent circumstances, it is not within an officer's discretion as to whether or not to serve an arrest warrant. A summons may be served by anyone authorized to serve a summons in a civil action.
8. If a person comes into this State in obedience to a summons directing them to attend and testify in this state they will not, while in this State pursuant to such summons, be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before their entrance into this State under the summons.
9. If a person passes through this State while going to another State in obedience to a summons to attend and testify in that State or while

returning therefrom, they will not while so passing through this State be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before their entrance into this State under the summons.

10. Upon executing the arrest warrant, the date of execution will be noted on it and a return made to the magistrate as soon as practicable.

F. Arrest Without a Warrant

1. The Constitution allows arrest to be made upon probable cause, without a warrant, except where a warrant is required to enter private premises. Utah law, however, requires that arrests be made pursuant to warrants except in certain specified circumstances.
2. Officers have the power and authority, without process, to arrest and take into custody any person who will commit or threatens to commit in the presence of the officer, or in the officer's view, any breach of the peace, or any offense directly prohibited by the laws of this State or by ordinance.
3. An officer may make a warrantless arrest:
 - a. When a person commits or attempts a crime in the officer's presence. Presence includes all of the physical senses or any device that enhances the acuity, sensitivity, or range of any physical sense, or records the observations of any of the physical senses.
 - b. When the officer has reasonable cause to believe a felony or Class A misdemeanor has been committed and has reasonable cause to believe that the person arrested has committed it.
 - c. When the officer has reasonable cause to believe a person has committed a public offense, and there is reasonable cause to believe that the person may:
 - (1) Flee or conceal themselves to avoid arrest.
 - (2) Destroy or conceal evidence of the commission of the offense; or
 - (3) Injure another person or damage property belonging to another person.
 - d. When the officer has reasonable cause to arrest a person for shoplifting or library theft.

- e. The arrest of a person may be lawfully made by any Peace Officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and a complaint must be made under oath against the person and setting forth the grounds for the arrest and, thereafter, the persons answer will be heard as if the person had been arrested on a warrant.
- f. If the person is arrested based on a fugitive warrant from another state.

G. Citizen Arrests

- 1. A private person may arrest another:
 - a. For a public offense committed or attempted in their presence; or
 - b. When a felony has been committed and a private person has reasonable cause to believe the person arrested has committed it.
- 2. Utah law requires a citizen making an arrest to take the arrested person before a magistrate or deliver arrested person to a Peace Officer without delay. Officers are not required to accept the arrestee but must make an independent judgement of the situation.
- 3. In such cases, officers will first determine the legality of the arrest. If the officer finds that probable cause exists, the officer can take custody of the arrestee and take the arrestee before a magistrate. If the officer does not find probable cause, the officer will advise the citizen to proceed directly to a magistrate or to the prosecutor's office.
- 4. An officer who determines that a citizen's arrest is lawful may take one of the following courses of action:
 - a. Whenever possible, the officer should issue a misdemeanor citation and have the arresting person co-sign the citation and avoid booking the prisoner.
 - b. Before the officer accepts custody, the arresting person must complete a witness statement articulating the facts supporting probable causes for the citizen arrest.

- c. The officer may accept custody, but release the arrested person on a misdemeanor citation, subject to the standard requirements of the citation.

H. Off-duty Arrests

Officers will use good judgement and discretion when making off-duty arrests. Officer will respond, at any time, to an emergency requiring an arrest, particularly if a crime of violence is involved. Arrests for minor misdemeanors, neighborhood disputes, and domestic disturbances are discouraged unless the circumstances are so severe that arrest is unavoidable. In such instances, officers will call an on-duty officer to handle the matter.

I. Arrested Persons Requiring Medical Attention

1. All arrested persons requiring medical attention as an outpatient in any emergency room facility will be handcuffed or adequately restrained throughout the entire process. The only exception is in cases where the type of injury makes restraints impossible or impractical. An officer will be present at all times during treatment.
2. Injured persons will not be placed under arrest prior to receiving medical treatment unless official booking at the jail can be accomplished before the treatment. Suspects taken from the scene directly to a hospital by ambulance should not be placed under arrest until the medical treatment is completed. Consideration should be given to obtaining a summons or warrant on the more serious cases.

J. Use of Ogden Police Department Secure Holding Rooms

1. Secure holding rooms will not be used to hold or house detainees, prisoners, or suspects. This area of the Police Department has been repurposed and is no longer suitable as a secure holding area.