



# Carrboro Police Department

<b>Subject:</b> <b>Chapter 2: ARREST POLICY</b>		<b>Number:</b> <b>V. Subsections</b>
<b>Issued: 07-02-18</b>	<b>Revised: N/A</b>	<b>Pages: 1 of 9</b>

- I. Arrest/Charging Policy
- II. Field Unarrest Policy
- III. Arrest and Arrestees
- IV. Disabled Arrestees
- V. Consular Notification

## **I. ARREST/CHARGING POLICY**

- A. Officers shall only arrest offenders who commit a clearly defined, substantive violation of the laws of the United States, the State of North Carolina, and/or ordinances of the Town of Carrboro.
- B. Arrests shall be in conformance with all applicable laws of the United States, the State of North Carolina, and the policies of this Department.
- C. Where the arresting officer deems it practicable and feasible, misdemeanor offenders shall be cited into court by the issuance of a “North Carolina Uniform Citation.” Otherwise, the officer shall arrest, or procure a warrant for the arrest of the offender, or procure a criminal summons, such decision to be based upon applicable laws and the officer’s professional judgment.
- D. Officers making a charge for the commission of an infraction shall do so by citation, or by procurement of a criminal summons, and not by custodial arrest.
- E. Citations shall not be issued, nor shall arrests be made, for frivolous, technical, or borderline violations. Factors unrelated to the formulation of probable cause, such as race, gender, economic status, or political or fraternal affiliation, shall not be considered by an officer in deciding whether to make an arrest.

## **II. FIELD UNARREST POLICY**

- A. Where an officer makes a custodial arrest, and thereafter determines that the original justification for the arrest has dissipated, such that probable cause no longer exists, the officer shall release the arrestee as quickly as possible in a safe place, preferably of the arrestee’s own choosing. The officer shall courteously inform the arrestee of the reason for the release and take any steps reasonably necessary to prevent further inconvenience. The officer shall clearly inform the arrestee that he is not required to go before a judicial official.



# Carrboro Police Department

<b>Subject:</b> <b>Chapter 2: ARREST POLICY</b>		<b>Number:</b> <b>V. Subsections</b>
<b>Issued: 07-02-18</b>	<b>Revised: N/A</b>	<b>Pages: 2 of 9</b>

- B. Officers shall fully document such incidents. The documentation must include the original justification for the arrest as well as the circumstances which necessitated the arrestee's release. The member's supervisor shall review all such documentation.

### III. ARREST AND ARRESTEES

- A. Upon making an arrest, an officer shall:
  - 1. Identify himself as a law enforcement officer unless his identity is otherwise apparent;
  - 2. Inform the arrested person that he is under arrest; and
  - 3. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears to be evident. [N.C.G.S. 15A-401(c) (2).]
  
- B. A member who is making a lawful arrest shall not use more force than he reasonably believes to be necessary in making the arrest or in dealing with an arrestee and shall not subject such person to more restraint than appears to be reasonably necessary for his arrest and detention and for the safety and protection of the arresting officer.
  
- C. Arrestees and suspects shall be treated in a fair and humane manner. Members shall not strike or use any other form of physical force on an arrestee, however, a member may do so when necessary to prevent an escape, or in self-defense, or in the prevention of violence to another person.
  
- D. Members shall take all necessary precautions in the arrest and detention of arrestees or suspects and shall take all necessary precautions for the safety and protection of such persons to prevent:
  - 1. An escape;
  - 2. The carrying of weapons on the person after arrest;
  - 3. Injury to themselves or any other person;



# Carrboro Police Department



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<b>Issued: 07-02-18</b>	<b>Revised: N/A</b>	<b>Pages: 3 of 9</b>

4. Damage to property; or
  5. Destruction of evidence.
- E. Members shall be responsible for the general well-being of arrestees. Any arrestee exhibiting or reporting any sign of medical distress **will** be evaluated by EMS or other appropriate medical staff.
- F. Members shall be responsible for taking reasonable steps in protecting such personal property as an arrestee may have in his possession or under his control at the time of arrest or detention.
- G. When making an arrest, members shall search the arrestee carefully and shall immediately take possession of all weapons and evidence. Confiscated weapons and evidence shall be turned over to the Evidence Custodian to be held or disposed of as directed by the court.
- H. Prisoners of the same sex as the arresting officer shall be searched at the time of arrest and prior to being transported. Any weapon or other object found on the prisoner which might endanger the safety of the officer or prisoner, or which might damage the police vehicle or equipment, shall be seized and secured. Any contraband, evidence, fruits or instruments of a crime unrelated to the arrest but incident to a body search, shall be seized and appropriate charges filed.
- I. When the prisoner is of the opposite sex, the officer will take care to search and secure all articles in which a weapon could be concealed; i.e. purse, briefcase, package, etc. When the officer sees or strongly suspects that the prisoner of the opposite sex has concealed on his/her person a weapon, evidence, contraband, or fruits of a crime which may result in injury to the officer or prisoner or in the destruction of evidence, contraband, or fruits of a crime, the arresting officer will follow the below listed procedures.
1. The suspect will be handcuffed behind his/her back and monitored closely until an officer of the same sex can search them.
  2. Notify the suspect that a search will be conducted.
  3. If a female is being searched the male officer shall remain present and vice versa.



# Carrboro Police Department



<b>Subject:</b> <b>Chapter 2: ARREST POLICY</b>		<b>Number:</b> <b>V. Subsections</b>
<b>Issued: 07-02-18</b>	<b>Revised: N/A</b>	<b>Pages: 4 of 9</b>

4. If a female or male officer is not available, have a responsible witness observe the search or frisk.
  5. Have the suspect remove any coat, jacket, and search these outer garments.
  6. Always start at the head and systematically work down to the soles of the shoes.
  7. Minimize physical contact by having prisoner pull his/her clothing tight against the body. Any concealed weapon should show as a bulge.
  8. If something is seen that appears to be a weapon, it shall be removed.
  9. When physical contact is necessary, the edge or back of the hands should be used.
  10. The method of transporting female prisoners is essentially the same as for male prisoners. In addition to these procedures, the officer is to notify communications of the beginning mileage, fleet vehicle identification number, and clarify (if necessary) the location and route to the jail. The Communications Center is to advise the officer of the exact time. Upon arrival at the jail, the officer is to notify Communications of the ending mileage and receive the exact time from the Telecommunicator. If for some reason during transport the officer should have to stop for any problem the officer will notify communications of the reason for the delay. All communications will be logged into the CAD system.
- J. If for any reason a prisoner cannot be thoroughly searched before being turned over to a transporting officer, the arresting officer shall without fail advise the officer receiving the prisoner. When an officer receives a prisoner from another officer, the receiving officer shall immediately search the prisoner. The same procedures should be followed when handling female prisoners.
- K. Members shall not place weapons or objects adaptable for use as weapons and capable of inflicting serious bodily injury or permit such weapons or objects to remain unattended, in any location or place normally accessible to an arrestee or suspect.



# Carrboro Police Department

<b>Subject:</b> Chapter 2: ARREST POLICY		<b>Number:</b> V. Subsections
<b>Issued:</b> 07-02-18	<b>Revised:</b> N/A	<b>Pages:</b> 5 of 9

- L. Officers are specifically authorized to handcuff arrestees when such action is warranted or necessary, in the officer’s opinion and at the officer’s discretion. When feasible, arrestees should also be transported in those vehicles equipped with protective screens installed between the front and rear seats.
  1. The officer shall place the prisoner’s hands behind his back and secure them with handcuffs. This handcuffing technique may be modified based upon arrestee’s physical condition (i.e. shoulder injury, old age, etc.) or other factors that make handcuffing the arrestee behind their back impossible or impractical. A bellyband cuffing technique, flex cuffs, or other suitable method may be utilized as needed to effectively restrain the arrestee.
  2. The officer should then search the prisoner. The officer shall tighten the handcuffs only enough to prevent the prisoner from removing his hands. The officer shall not tighten the handcuffs in such a manner that would cut off circulation to the prisoner’s hands. The handcuffs will be double-locked to ensure that the handcuffs do not tighten on the prisoner’s wrists accidentally. **Under no circumstances will the handcuffs be tightened or used to inflict pain or punishment upon the arrestee.**
  3. Officers shall document or memorialize that the prisoner was handcuffed and that the handcuffs were checked for tightness and double-locked. As part of annual training, the subject of handcuffing shall be enforced and the aforementioned procedure regarding handcuffing will be reviewed both in writing and in its application.
  
- M. Officers making an arrest shall convey the arrestee, or cause him to be conveyed, to the Magistrate’s Office without unnecessary delay, shall advise the arrestee of his rights under 15A-501, and shall at no time accompany the arrestee to his home, room or elsewhere, except with consent of a shift supervisor or superior officer.
  
- N. Upon taking an arrested person to the Magistrate’s Office, if the Magistrate immediately releases the arrested person (on bond or if no probable cause is found for a warrantless arrest), the officer may return the person previously arrested and any other person accompanying him to the scene of the arrest or



# Carrboro Police Department

<b>Subject:</b> <b>Chapter 2: ARREST POLICY</b>		<b>Number:</b> <b>V. Subsections</b>
<b>Issued: 07-02-18</b>	<b>Revised: N/A</b>	<b>Pages: 6 of 9</b>

to another location within the officer’s jurisdiction. This shall be done only after being authorized to do so by the shift supervisor or a superior officer.

- O. Officers arresting a person for the commission of a felony or for certain enumerated misdemeanors shall cause the person to be fingerprinted, and those fingerprints shall be forwarded to the State Bureau of Investigation as required by N.C.G.S.15A-502(a). Officers should consult this statute for authorization to photograph and fingerprint arrested persons generally.
- P. When possible, female arrestees shall be transported by a female officer. Otherwise, female arrestees shall be transported by a male officer in the company of another male officer, except when it is impractical to do so. In cases where a female officer or a second male officer is not available the transporting officer shall notify the dispatcher of his odometer reading, fleet vehicle identification number, and his destination. Upon arriving at the destination, the officer shall then notify the dispatcher of his arrival and his odometer reading, and he shall request the time from the dispatcher.
- Q. A male officer shall not talk to a female arrestee or suspect alone in an interrogation room unless there is visibility into the room through glass or an open door.
- R. Arrestees should not be searched by officers of the opposite sex, if possible. However, if an immediate search under one of the following conditions appears to be necessary, any officer is expressly authorized to search an arrestee:
  1. When there is good reason to believe that the arrestee has in his possession a weapon, a poison, a drug, or other like means of causing death or injury to himself or another; or
  2. When there is good reason to believe that evidence of a crime is hidden about the arrestee and there is imminent danger that it may be thrown away or destroyed.

Searches under the above conditions should be conducted by an officer of the opposite sex only when an officer of the same sex is not readily available, and such search should be made with all possible regard for decency and with a witness, if possible.



# Carrboro Police Department



<b>Subject:</b> Chapter 2: ARREST POLICY		<b>Number:</b> V. Subsections
<b>Issued:</b> 07-02-18	<b>Revised:</b> N/A	<b>Pages:</b> 7 of 9

## IV. DISABLED ARRESTEES

### A. Deaf Arrestees:

1. A deaf person is a person whose hearing impairment is significant enough that the person experiences impairment in processing any linguistic communication through hearing, with or without a hearing aid or other amplification device.
2. When an officer arrests a deaf person, the officer shall comply in all respect with N.C.G.S. Chapter 8B.
3. Upon the arrest of any individual who is deaf, the arresting officer shall immediately procure a qualified interpreter before any of the following takes place:
  - a. A bond or custody hearing before the magistrate;
  - b. Advisement of the *Miranda* rights (juvenile or adult);
  - c. Custodial Interrogation;
  - d. Advisement of the Chemical Analysis rights in an implied- consent offense; or
  - e. For any other warning, notification of rights, arraignment, bail hearing or other preliminary proceeding.
4. The arresting officer shall procure the qualified interpreter by requesting that the appointing authority (judge, magistrate, or clerk) appoint the interpreter from a list of qualified interpreters maintained by the Department of Health and Human Services.

### B. Other Disabled Arrestees:

1. The Department recognizes and acknowledges that Title II of the Americans with Disabilities Act (ADA) prohibits discrimination against any person with a disability in state and local government services, programs and employment.



# Carrboro Police Department



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<b>Issued: 07-02-18</b>	<b>Revised: N/A</b>	<b>Pages: 8 of 9</b>

2. Every officer of the Department shall make reasonable accommodations to transport and interact with arrestees with disabilities.
  - a. The reasonable accommodations shall be in compliance with federal and state law.
  - b. The reasonable accommodations shall be made ensuring respect for the disabled arrestee and safety concerns of the arrestee, officer, and public at large.

## V. CONSULAR NOTIFICATION

### A. Generally:

The Department recognizes and acknowledges that the Vienna Convention on Consular Relations (VCCR) provides rights of consular notification and access to foreign nationals here in the United States.

(NOTE: "Foreign Nationals" include any person not a citizen of the United States, regardless of the person's immigration status.)

### B. Procedure:

When an officer arrests a person he reasonably believes to be a foreign national and who shall be held in custody, the officer shall:

1. Ask the arrestee if he is a citizen of the U.S.;
  - a. If the arrestee responds that he is U.S. citizen, the officer shall document this information and shall not proceed further with the procedure; or
  - b. If the arrestee responds that he is not a U.S. citizen, the officer shall continue to the next step.
2. Ask the arrestee to identify his home country (the country where he holds citizenship);



# Carrboro Police Department



<b>Subject:</b> <b>Chapter 2: ARREST POLICY</b>		<b>Number:</b> <b>V. Subsections</b>
<b>Issued: 07-02-18</b>	<b>Revised: N/A</b>	<b>Pages: 9 of 9</b>

3. Identify whether the arrestee's home country is a mandatory notification country or optional notification country;
4. If the arrestee's home country is a mandatory notification country, the officer shall inform the arrestee that his country's consulate office will be notified of his arrest and custody status. The officer shall then fax the geographically closest consulate officer the information regarding the arrestee and his custody status as soon as practicable;
5. If the arrestee's home country is an optional notification country, the officer shall ask the arrestee whether the arrestee would like the officer to contact the consulate office regarding his arrest and custody status;
  - a. If the arrestee indicates that he does not wish to have the consulate office notified, the officer shall document this information and not proceed any further in the process; or
  - b. If the arrestee indicates that he does wish to have the consulate officer notified, the officer shall fax the closest geographical consulate office information on the arrestee and his custody status as soon as practicable.
6. If a fax machine is not available for notification, for whatever reason, the officer shall make a telephone call to the geographically nearest consulate office. Information regarding the notification will be noted in the corresponding report.
7. If the officer makes notification by fax, a copy of the fax and a record of the fax transmission shall be kept with the officer's report of the arrest.