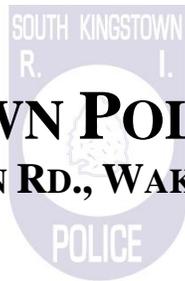


# SOUTH KINGSTOWN POLICE DEPARTMENT

1790 KINGSTOWN RD., WAKEFIELD, RI 02879



POLICY NUMBER	ORDER TYPE	ORIGINAL ISSUE DATE	EFFECTIVE DATE
430.01	STANDING ORDER	7/26/04	7/22/19
CHAPTER : SUBSECTION		TITLE	
LAW ENFORCEMENT OPERATIONS : POLICE FUNCTIONS		LIMITS OF AUTHORITY	
REVIEW DATES		REVISION DATES	
6/18/19		6/27/19	
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SWORN PERSONNEL	RIPAC 2.3 – 2.6		20

## I. PURPOSE

The purpose of this standing order is to establish procedures for ensuring compliance with constitutional requirements during criminal investigations.

## II. POLICY

It is the policy of the South Kingstown Police Department that officers observe constitutional safeguards scrupulously and knowledgeably. The department further expects that officers understand the limits and prerogatives of their authority to act. Respect for the civil liberties of citizens shall be the paramount concern in all enforcement matters. Sworn members of this department are expected to use good judgement, discretion, and common sense in considering the individual circumstances when dealing with citizens. Police actions are to be professional, objective, and non-prejudicial.

## III. DEFINITIONS

***Exigent Circumstances*** – Circumstances that would cause a reasonable person to believe that entry (or other relevant prompt action) was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of the suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.

***Probable Cause*** –According to the U.S. Supreme Court, “Probable cause exists where the facts and circumstances within their (the arresting officers’) knowledge and of which they had reasonable trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief that an offense has been or is being committed.”

**Reasonable Suspicion** – Articulable facts and circumstances that would lead a reasonable police officer, based on his/her training and experience, to suspect that criminal activity may be afoot; a standard less than probable cause.

**Terry Stop / 4<sup>th</sup> Amendment Stop** – A brief, involuntary detention, based on reasonable suspicion, of a person for the purpose of investigating whether an individual is involved in criminal activity.

**Terry Frisk / Terry Search** – A justifiable protective search for weapons when there is reasonable suspicion to believe that an individual is armed and dangerous; can be without probable cause to arrest.

## IV. PROCEDURE

### A. Interviews and Interrogations

1. *Field Interview* - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions. Officers may stop individuals for the purpose of conducting a field interview only where reasonable suspicion is present. In justifying the stop, the officer must be able to point to specific facts that, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:
  - a. The appearance or demeanor of an individual suggests that he is part of a criminal enterprise or is engaged in a criminal act.
  - b. The actions of the suspect suggest that he is engaged in a criminal activity.
  - c. The hour of day or night is inappropriate for the suspect's presence in the area.
  - d. The suspect's presence in a neighborhood or location is inappropriate.
  - e. The suspect is carrying a suspicious object.
  - f. The suspect's clothing bulges in a manner that suggests he is carrying a weapon.
  - g. The suspect is located in proximate time and place to the alleged crime.
  - h. The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.

Following a field interview, an officer will document the information obtained from it in a Field Interview Report, Offense Report or Arrest Report.

2. *Interview* - As opposed to an interrogation, may be construed as any conversation with a suspect, witness, victim, or citizen.

An interview would take place when a reasonable person being “interviewed” would feel, at any time, he has the freedom to end the conversation and/or physically remove himself from the presence of the police.

3. *Interrogation* - To paraphrase the Supreme Court, includes direct questioning (or its functional equivalent) about a crime or suspected crime, as well as any words or conduct on behalf of the police that may elicit an incriminating response from the suspect.
  - a. An interrogation does not rely solely or exclusively on words; conduct can be the "functional equivalent" of asking questions.
  - b. An interrogation takes place when a suspect in a crime is in custody or detained.
  - c. A person is in custody when an officer tells him that he or she is under arrest.

- d. Detaining someone is the functional equivalent of being in custody and occurs when a reasonable person in the suspect's place would feel that his or her freedom of action has been restricted to the same degree as a formal arrest.
  - e. Any individual being detained or placed into custody and is being interrogated will be read his or her Miranda Rights prior to any questioning.
4. Rights Admonition
- a. In order to achieve uniformity in administering Miranda Rights, police officers shall be issued cards with the Miranda Rights/Warning and waiver on them and provided with similar forms (SKPD Form #200).
  - b. Before custodial interrogation, officers shall advise suspects of their Miranda Rights by reading aloud from the card or form. The card can be utilized in the field, but the form should be used for more formal interrogations. The waiver or non-waiver of rights shall be documented in the report and/or on the form.
  - c. After the rights have been read, understood, and the person wishes to waive them, the officer will have the suspect sign the Rights form (if used) and document such in the report. Officers shall interrogate suspects only when they have waived their rights. Officers shall cease questioning whenever the suspect invokes the right to silence or requests the presence of counsel.
    - 1) If a suspect, once in custody, requests counsel after being advised of Miranda rights, he or she cannot be interrogated again about the crime for which he or she was charged, about other crimes, or by any other officers unless:
      - The counsel is present during the interrogation or
      - The suspect himself initiates the interrogation.
    - 2) If the suspect is deaf or unable to speak English, the interrogating officer shall notify the on-duty supervisor and arrange to obtain an interpreter.
  - d. Officers therefore cannot obtain a waiver under these circumstances unless the suspect initiates interrogation. If a suspect refers to counsel but his or her intentions are unclear, officers may question the suspect further to clarify his or her intentions. Any invocation of right(s) shall be clearly described in the investigating officer's report narrative.
  - e. If a suspect has invoked his or her right to silence, officers may interrogate the suspect if, after a passage of time, the suspect initiates communication with officers. Before questioning, however, officers shall again administer Miranda warnings and shall obtain a written waiver.

5. Voluntariness of confessions

The courts have provided officers with much latitude in interrogating suspects. If a suspect claims that he or she was coerced into confessing, the courts will examine the interrogation according to the totality of the circumstances. If interrogation methods appear to overcome the suspect's will, then the courts will find any resulting confession to be involuntary.

6. Exemptions or special cases

- a. Miranda warnings do not apply to the following situations that are non-custodial. This list is not all-inclusive:
    - 1) Brief on-scene questioning.
    - 2) Identification procedures such as fingerprinting, conducting a lineup, sobriety tests. (Questioning during booking may require Miranda warnings.)
    - 3) Volunteered spontaneous statements. (Once the officer has heard the suspect express spontaneous incriminating statements, the officer shall then advise the suspect of Miranda rights and obtain a waiver before asking additional questions.)
    - 4) Brief investigative detention or stop/frisk.
    - 5) Roadside questioning during routine traffic stops, including DUI stops until custodial interrogation begins.
    - 6) Routine booking questions attendant to arrest; questioning regarding a crime during booking will require Miranda.
    - 7) Questioning by private persons.
  - b. Public-safety exception- When an officer urgently needs information from a suspect because lives are in imminent danger, officers may delay giving Miranda warnings until the officers have received information sufficient to dispel the emergency. Officers must be or (have been) advised that a genuine, life-threatening emergency exists.
7. Documentation requirements
- a. Officers shall document in a report the circumstances surrounding the conduct of interrogations and the recording of confessions. Required information includes but is not limited to the following:
    - 1) Location, date, time, duration of the interrogation.
    - 2) Identities of all persons present.
    - 3) Miranda warnings given, the suspect's responses, and any waivers provided.
    - 4) The nature and duration of any breaks or lapses during the interrogation and the reasons for them.
  - b. Video or audio tape recordings shall be treated as evidence and handled according to SKPD Policy 430.23 Evidence/Property Collection & Preservation.

## B. Search and Seizure

### 1. Definition

- a. A search occurs where (1) there is a "prying into hidden places by the police officer" and (2) the person whose premises or person is being searched has a reasonable expectation of privacy.
- b. The Fourth Amendment guarantees the right for people to be free from unreasonable searches and seizures of their homes, persons and things. The Supreme Court is continuously interpreting the Fourth Amendment as it applies to police conduct. Illegally seized items of evidence will not be admitted in court and may be cause for a lost criminal case. Additionally, an illegally conducted search invites civil suits and criminal prosecution.

## 2. Reasonable searches/seizures not requiring a warrant

As a general rule, no arrest warrant or search warrant is required for an arrest in a public place, as long as probable cause exists. Any items seized as property or evidence during any search must be inventoried in a report. Reasonable searches/seizures not requiring a warrant include:

- Consent searches
- Emergency searches
- Plain view / feel seizure
- Abandoned property / Open field searches
- Searches incident to arrest
- Terry stop/frisks and Plain feel seizures
- Search and seizure of movable vehicles

### a. Consent searches

- 1) A search warrant is not necessary where a person who has authority or control over the thing or place searched consents to the search. Reasonable suspicion or probable cause is not required to make a consent search, exception being during motor vehicles and pedestrian stops; the officer may merely ask for permission from someone with control over the premises. If that person grants permission, the search may take place. Officers should have some reason for requesting a consent to search. The sole justification for a consent search is the existence of knowing, intelligent, and voluntary consent.

Consent searches must observe the following rules:

- a) No operator or owner-passenger of a motor vehicle shall be requested to consent to a search by a law enforcement officer of his or her motor vehicle, that is stopped solely for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity.
- b) No pedestrian shall be requested to consent to a search by a law enforcement officer of his or her person, unless there exists reasonable suspicion or probable cause of criminal activity.
- c) No juvenile shall be requested to consent to a search by a law enforcement officer unless there exists reasonable suspicion or probable cause of criminal activity. to consent to a search by
- d) Generally, the person granting consent must use, access, or control the property. A person having exclusive possession of some part of jointly owned property can only give consent for a search of that part.
- e) If two people have joint ownership of property, either may give consent. If possible, have the consenting party sign a written consent-to-search form.
- f) A landlord, including a hotel or motel manager, cannot consent to a search of a tenant's premises, unless the tenant has been evicted or has abandoned the property.
- g) A husband or wife, or one member of a cohabiting unmarried couple, may consent to a search for evidence of areas in common ownership or use, but, if one cohabitant is present and objects then no search shall be conducted based on consent.

- h) A parent may consent to a search of premises occupied by a dependent child if the parent also has access to the premises.
  - i) An employee cannot give valid consent to a search of his employer's premises unless he has been left in custody of the premises.
  - j) An employer may generally consent to a search of premises used by employees, except premises used solely by an employee (e.g., a locker).
- 2) Consent must be given voluntarily. If an officer requests consent from a citizen under circumstances which a reasonable person would consider coercive, then officers must seek a warrant. The officer may have the burden of demonstrating voluntariness.
  - 3) A person who initially gives consent may withdraw it at any time. Officers shall then secure the premises and seek a warrant if probable cause exists.
  - 4) Refusal to give consent, in itself, cannot justify further law-enforcement action.
  - 5) The scope of a consent search is limited to the area for which consent has been given, and within this area, officers may search only into areas where the objects sought could reasonably be hidden.
- b. Emergency Searches
- 1) A search warrant is not necessary in an emergency / exigent circumstances.
  - 2) Eleven considerations determine whether an emergency exists:
    - a) The degree of urgency involved and the time required to get a warrant;
    - b) Officer's reasonable belief that contraband is about to be removed or destroyed. [Note that not all crimes are serious enough to create exigent circumstances. See "e" below];
    - c) The possibility of danger to others, including officers left to guard the site;
    - d) Information that the possessors of contraband are aware that police are on their trail;
    - e) Whether the offense is serious, or involves violence;
    - f) Whether officers reasonably believe the suspects are armed;
    - g) Whether the officers have probable cause at the time of entry;
    - h) Whether the officers have strong reason to believe the suspects are present on the premises;
    - i) The likelihood that the suspects will escape;
    - j) The suspects' entry onto premises after hot pursuit. To justify warrantless entry following hot pursuit, the arrest process must have begun away from the premises, and the offender knows that he or she is under arrest, and the offender tries to avoid arrest;
    - k) A reasonable belief that someone on the premises is in distress and in need of emergency assistance;
  - 3) If officers enter premises with probable cause to believe that critical evidence may be destroyed or removed unless immediate action is taken, they may enter without a warrant, secure premises, and obtain a search warrant before proceeding further unless they have obtained consent to

search, or some new circumstances arise necessitating another warrantless search.

c. Plain View Seizure

To make a plain-view seizure of property (contraband, fruits, or instrumentalities of the crime), two requirements must be met:

- a) From a lawful vantage point, the officer must observe contraband left in open view;
- b) It must be immediately apparent to the officer that the items he or she observes may be evidence of a crime, contraband, or otherwise subject to seizure.

d. Abandoned Property, Open Field Searches & Public Spaces

- 1) A search warrant is not required for public spaces, property that has been abandoned and open fields.
- 2) To constitute abandoned property, two conditions must apply:
  - a) Property was voluntarily abandoned; and
  - b) Property was discarded outside the area in which someone has a reasonable expectation of privacy.
- 3) Open fields are not protected by the Fourth Amendment, but officers must distinguish them from curtilage, searches of which require a warrant. Curtilage is the area of a dwelling, which is necessary, convenient, and habitually used by the family for domestic purposes. The extent of curtilage of a private residence is determined by whether the area is enclosed; the nature and use of the area; the proximity of the area to the home; and any measures taken by the owner to protect the area from observation.

e. Search Incident to Arrest

- 1) The arrest must be lawful, and the search can be made only of the immediate area within the control of the person being arrested.
- 2) The search must be made contemporaneous to arrest.
- 3) A search incident to a lawful arrest is permitted to:
  - a) Prevent the destruction of evidence.
  - b) Protect the arresting officer and others.
  - c) Seize contraband or evidence instrumental to the prosecution of a crime.
  - d) Prevent escape or suicide
  - e) Provide an inventory of those items on the person or in his/her possession at the time of arrest.
- 4) Scope of the Search
  - a) As a general rule, an officer may search the arrested person, everything in his/her possession, and everything, which, in the course of the arrest, is within his/her immediate control.
  - b) Anything in the actual possession of the person arrested may be searched, (i.e., a carton, suitcase or purse being carried by the arrestee.)

- c) Items within the reach of the person or within his/her immediate physical control can be searched.
  - d) If the person arrested is in a motor vehicle, you may search a motor vehicle incident to arrest only when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search or when it is reasonable to believe that other evidence relevant to the crime for which the person is arrested might be found in the vehicle. It is permissible to search the passenger compartment of the vehicle. During the course of this search, open and unlocked, closed containers may be inspected. A locked car trunk may not be searched solely on the arrest.
  - e) During the arrest, if the officer observes a suitcase or other closed container in open view but not in the arrested person's actual possession or immediate control, the item may be seized as a protective measure. The suitcase or container may be searched only if probable cause exists to do so and, absent exigent circumstances, a warrant has been obtained. Keep in mind that the arrestee may also give consent.
- f. Terry Stops/Frisks and "Plain Feel" Seizures
- 1) Officers must be able to document reasonable suspicion in order to conduct a lawful stop of a vehicle or a person, absent probable cause (i.e.: moving violation).
  - 2) Scope of a Lawful Stop:
    - a) A lawful stop permits officers to "freeze" a situation long enough to get the name and address of the person detained and an explanation of the suspicious circumstances surrounding the stop.
    - b) The duration of the stop is to be based upon common sense and ordinary experience. The courts have not specified time limits preferring to analyze the reasonableness of the duration on a case by case basis.
    - c) The purpose of the questioning following a lawful stop is to dispel or confirm the officer's reasonable suspicion that the detained person is involved in criminal activity so permissible questions are those designed to accomplish this purpose. Questioning is generally limited to asking the detained person's name, address, what he/she is doing and where he/she is going.
    - d) If there is no reason to detain a person after brief questioning they must be allowed to go on their way. Any further detention will be considered an arrest and must be supported by full probable cause.
  - 3) Scope of Lawful Frisk.
    - a) A lawful stop is required for a lawful frisk, but an officer may not automatically conduct a frisk of every person lawfully stopped.
    - b) A lawful frisk requires additional facts beyond those used to support the stop. Officers must be able to document reasonable suspicion that shows why they suspect a person may be armed and dangerous.

- c) A frisk should be no more intrusive than is necessary to confirm or dispel the officer's reasonable suspicion that a suspect is armed and dangerous.
- d) An officer may remove and inspect any item that the officer reasonably believes is a weapon or could contain a weapon. The officer must articulate the relevant facts and training, knowledge and experience that led the officer to reasonably conclude that the item was a weapon or that the item could contain a weapon.
- e) The officer conducting the lawful frisk may also frisk any "lunging" area from which the suspect could obtain a weapon. This includes a closed container within lunging distance of a suspect. The officer may open the container to check for weapons if the following applies.
  - 1. In light of the officer's training and experience the container could contain a weapon and
  - 2. The container is not locked.
- f) If the subject of the lawful frisk is in a motor vehicle an officer can order the suspect from the vehicle and frisk both the suspect and the vehicle.
- g) During a lawful frisk (stemming from a lawful stop) if an officer detects an object that is or might reasonably be an item that is contraband or other criminal evidence, the object may be seized. Threatening items such as weapons may always be removed during frisks. Non-threatening items may be removed only if their contraband or evidentiary nature is immediately apparent (the so-called "plain-feel" or "plain-touch" rule). Refer also to SKPD Standing Order 430.23 Evidence/Property Seizure.

g. Search & Seizure of Movable Vehicles

In order to search without a warrant, an officer must have probable cause to believe evidence of a crime or contraband is located within a vehicle and the vehicle is readily mobile.

For the purpose of this section, a search is an examination of a motor vehicle with an investigative motive, that is, to discover evidence or to examine the vehicle identification number (VIN) to ascertain ownership.

- 1) Any vehicle that has been disabled with little chance of it being driven away shall be searched with a warrant.
- 2) When probable cause exists, a search may extend anywhere within the vehicle, unless the probable cause is limited to a specific part of the vehicle.
- 3) An entry into the vehicle to examine the VIN or otherwise determine ownership must be limited to these purposes.
- 4) As a rule, no container within a vehicle shall be searched unless it might contain the item(s) sought.

2. Search Warrants

- a. All sworn officers of the South Kingstown Police Department may sign a Search Warrant. However, all Search Warrants must be reviewed by a supervisor before presentation to a Judge.
- b. Search Warrants may be issued to search for and seize any of the following four (4) types of items:
  - *Fruits of a Crime* - Material objects acquired by means or in consequence of the commission of the crime.
  - *Contraband* - Items kept, concealed or possessed in violation of the law or items kept for the purpose of violating the law.
  - *Instruments of a Crime* - Items, which will aid or have been used in the commission of a crime, such as weapons and burglary tools.
  - *Other Evidence* - Items, which will aid in the apprehension or conviction of a criminal, such as bloody or ripped clothing, or business records. This evidence may be seized providing the warrant clearly states its connection to the crime.
- c. Areas That Maybe Searched with a Warrant
  - 1) The scope of a search is determined by the language in the warrant.
  - 2) Officers executing a Search Warrant may search areas where the items named in the Search Warrant may be concealed; for example, if the warrant states television sets, officers may not look in small containers or drawers. However, if the warrant were for narcotics, a search into drawers and containers would be permitted.
- d. Executing a Search Warrant
  - 1) The complaining officer requesting the Search Warrant will be present during the execution of the warrant.
  - 2) The Chief, a Captain or the Detective Commander must be aware of the search warrant prior to it being executed.
  - 3) The Patrol/Detective Division OIC may designate another officer to be present during the execution of the warrant.
  - 4) This designee will be directly responsible to the Patrol/Detective Division OIC.
  - 5) A minimum of two (2) uniformed officers will be present during the execution of a Search Warrant.
  - 6) Whenever possible, if the suspect(s) is a female, a female officer should be present during the search.
  - 7) While executing a Search Warrant, all department policies pertaining to the use force will be adhered to.
  - 8) No Search Warrant will be executed after sunset, unless specifically authorized by the magistrates upon satisfactory cause.
  - 9) A “No Knock” entry may be made only when the officers have reasonable suspicion that knocking and announcing their presence, under the particular

circumstances, would be dangerous or futile, or that it would inhibit the effective investigation of a crime, for example, allowing destruction of reasonable evidence. An amount of time will be allowed for property owners to respond to the police request for entry. A reasonable amount of time will be determined on a case by case basis.

- 10) A “high threat” Search Warrant is defined as a search where there is reliable intelligence that the persons present are armed or have threatened to use force to counteract police intervention.
- 11) In the case of a “high threat” search warrant, a specially trained team of police officers, trained in high threat entries and warrant service, will be used to affect entry and secure the scene. ***The Rhode Island State Police Tactical Team can be contacted for this purpose at (401)444-1000.*** All requests to utilize a tactical team to serve a “High Threat” search warrant will require prior approval of a Captain or the Chief of Police.
- 12) In case of a “high threat” Search Warrant, a S.W.A.T. Team may be used to affect entry and secure the scene.
- 13) It is the responsibility of the complaining officer to brief the tactical / entry team leader.
- 14) Once the tactical / entry team has gained entry and secured the scene, department members shall be responsible for searching the scene.
- 15) If the property owner is to be arrested on the basis of the search or other outstanding warrants, he/she may be removed and returned to headquarters immediately.
- 16) If the property owner is not under arrest, he/she should remain until the search is completed.
- 17) If the property owner is combative, interfering or poses a possible obstruction in the furtherance of on-going investigations, i.e. Search Warrants, he/she may be removed from the property until the search is complete.
- 18) The complaining officer will leave the property owner a copy of the search warrant and a detailed return of service.
- 19) Details pertaining to the execution of a search warrant will be documented by means of appropriate departmental reports and other supportive means, i.e. photographs, etc.
- 20) The executed search warrant, accompanied by a written inventory of any seized property, shall be returned to the Court Clerk in the Jurisdiction where the warrant was obtained within fourteen (14) days of issuance.

### C. Arrests

The Rhode Island General Laws, Title 12, Chapter 7, gives Law Enforcement Officers the authority to enforce criminal laws of the state as well as ordinances and regulations of the jurisdiction where they are appointed. In addition, certain provisions of the Town Charter (Sec. 4412) and Ordinances permit a police officer to exercise his/her lawful

authority within the Town of South Kingstown. Police officers will use good judgement, discretion, and common sense in considering individual circumstances when deciding what, if any, enforcement action to take for violators of the law.

All arrests will be documented in an arrest report (AR). Any arrestee taken into custody will be properly processed, including fingerprinted and photographed; exception being an arrestee transported to the hospital and arraigned, or a similar circumstance. Arrestees taken into custody will be afforded the right to counsel and a telephone call, as appropriate. See also SKPD Standing Order 440.03 Cellblock/Holding Facility, Section H for additional Prisoner Rights.

Guidelines for the arrest of foreign diplomats or officials can be found in the Diplomatic & Consular Privileges and Immunities from Criminal Jurisdiction Law Enforcements Aspects Summary, as provided by the US Department of State, in PMAM, Miscellaneous Information, Foreign Nationals.

1. Rhode Island Crime Classifications: Section 11-1-2 of Rhode Island General Laws established four (4) crime classifications. These classifications and related penalties are as follows:

- a. FELONY – is a crime punishable by imprisonment for a term of more than one (1) year or by a fine of more than one thousand dollars (\$1,000.00).
- b. MISDEMEANOR – is a crime punishable by imprisonment for a term not exceeding one (1) year or by a fine of not more than one thousand dollars (\$1,000.00) or both.
- c. PETTY MISDEMEANOR – is a crime punishable by imprisonment for a term not exceeding six (6) months or by a fine of not more than five hundred dollars (\$500.00) or both.
- d. VIOLATION – is any offense punishable by a fine only of not more than five hundred dollars (\$500.00).

2. Arrest without a Warrant

- a. An arrest is the deprivation of a person's liberty with the intent to make him/her answer to a particular charge(s). When an arrest is made, the justification must be sufficient to support the charge.
- b. It is preferable to obtain a warrant prior to making an arrest, if time and circumstances permit. However, under Title 12 of the general laws, an arrest without a warrant may be made in any felony or certain misdemeanors under the following conditions:
  - 1) *Violation of Town Ordinance* - Generally, an arrest is not made for Town Ordinance violations; a summons is issued at the scene. An arrest may be made only when there is a need to establish positive identification, which is not available at the time of the summons. In no case will the detention to establish identification, based solely on a violation, exceed two (2) hours
  - 2) *Violation of Rhode Island General Law (RIGL)* - Generally, an arrest is not made for violations of RIGL; a summons will be issued at the scene. An arrest may be made only when there is a need to establish positive identification, which is not available at the time of the summons. In no case

will the detention to establish identification, based solely on a violation, exceed two (2) hours

- 3) *Misdemeanor and Petty Misdemeanor Crimes (RIGL 12-7-3)* - A peace officer may, without a warrant, arrest if the officer has reasonable cause to believe that the person is committing or has committed a misdemeanor or a petty misdemeanor, and the officer has reasonable grounds to believe that the person cannot be arrested later or may cause injury to himself or herself or others or loss or damage to property unless immediately arrested.

For certain domestic violence offenses enumerated in RIGL 12-29-3 (Domestic Violence Prevention Act), and RIGL 12-29.1-4 (Elder Violence Prevention Act) an arrest without warrant shall be made within 24 hours of the alleged crime. If said arrest cannot be made, the officer shall advise the victim of the right to file a criminal complaint and shall seek a warrant for arrest, if there is probable cause to do so.

- 4) *Felony (RIGL 12-7-4)* - A peace officer may, without a warrant, arrest a person for a felony, whenever:
- a) The officer has reasonable ground to believe that a felony has been or is being committed and that the person to be arrested has committed or is committing it.
  - b) The person to be arrested in fact has committed or is committing a felony.
  - c) Arrest and Detention Requirements (RIGL 12-7-1): When a suspect is arrested with or without an arrest warrant police may only hold the detainee for two hours. After that, he/she has the right to bail or must be transported to Court or the ACI.

NOTE: Exception - RIGL 11-47-28: Suspect illegally in possession of a firearm maybe held twenty-four (24) hours.

- c. The State of Rhode Island has no statutory law, which grants a police officer of a City or Town the general authority to act as a police officer throughout the State at all times.
- d. There is no statute in Rhode Island relating to Citizen's Arrest, but the courts have held that the common law rule allowing such felony arrests would be followed.
- e. Although there is no Rhode Island statute authorizing police officers in non-pursuit situations outside their jurisdictions to make an arrest, there are certain situations where such arrests are permitted. A police officer has no official jurisdiction outside his/her own jurisdiction, but he/she does have the same authority as any private citizen to arrest without a warrant.
- f. On-duty officers may exercise their authority as police officers and arrest outside the Town in limited circumstances.
  - 1) *Village of Jerusalem, Narragansett* – SKPD will provide total police coverage to this area, as approved through a documented agreement, initiated in January 1976 and periodically updated.

- 2) *Common-law doctrine of fresh pursuit* - An officer may pursue a felon or suspected felon, with or without a warrant, into another jurisdiction and arrest him/her there. Through a reciprocal statute, Rhode Island Police Officers may arrest in the Commonwealth of Massachusetts after close pursuit for a felony. Additionally, by statute, officers in hot pursuit for violations of the Motor Vehicle Code within the State of Rhode Island may arrest outside the town but within the State of Rhode Island. South Kingstown does not border another state so pursuit into another state must comply with the regulations of the bordering Rhode Island city or town.
- 3) *Arrest after close pursuit by officers from cities or towns(RIGL 12-7-19)* - Any member of duly organized municipal peace unit of another city or town of the state who enters any city or town in close pursuit, and continues within any city or town in such close pursuit, of a person in order to arrest him or her on the ground that he or she has violated the motor vehicle code in the other city or town shall have the same authority to arrest and hold in custody the person as members of a duly organized municipal peace unit of any city or town have to arrest and hold in custody a person on the ground that he or she has violated the motor vehicle code in any city or town.
- 4) *Request for emergency police assistance / mutual aid from another police department within the state* – Officers responding shall be subject to the authority of the requesting Chief and have the same authority, powers, duties, privileges, and immunities as a duly appointed police officer of the city or town making the request until the requesting Chief of Police discharges and releases the assisting police officers to their own departments. (RIGL 45-42-1)
  - a) Whenever officers of the South Kingstown Police Department are asked to assist an outside department, the patrol OIC will determine how many officers are sent based on the type of assistance requested.
  - b) If an outside department other than a bordering town or city is requesting assistance, the OIC must contact the Chief or a Captain to obtain approval prior to sending any officers. The OIC will then complete a report to the Chief of Police in reference to the assistance.
  - c) The following exception to this policy will apply: When the South Kingstown Police Department is requested to assist an outside department for traffic duties only and the number of officers needed does not exceed two (2).
- 5) *Request for non-emergency mutual aid* – Officers may request and respond to requests for non-emergency mutual aid to and from bordering towns with which the Town of South Kingstown has entered into a Non-Emergency Mutual Aid agreement, in accordance with RIGL 45-42-2 and SKPD 110.04 Jurisdiction & Mutual Aid. Officers responding to such requests shall have all of the same authority, powers, duties, privileges and immunities for jurisdictional purposes as a duly appointed police officer of the town making the request.
- 6) *Multi-jurisdictional task forces* - Police officers assigned to any such task force, on a temporary basis, may arrest outside the town of South Kingstown

consistent with the grant authority afforded to the agent of the state by statute.

3. Arrest with a warrant:
  - a. Any sworn member of the South Kingstown Police Department may sign an arrest warrant or arrest complaint form, but the paperwork must be reviewed by a supervisor prior to submission to the Court.
  - b. If an arrest warrant is issued, the arrest will be made by a sworn police officer. To affect such an arrest within a private residence, entry will be made only under exigent circumstances, with a search warrant, or with permission of an occupant or the owner.
  - c. Sworn department officers may execute arrest warrants in other Rhode Island municipalities with the following requirements:
    - 1) Must do so with the authorization of the Officer-in-Charge.
    - 2) Presence of a sworn member of that municipality's police department and /or a Rhode Island State Police Officer.
  - d. When arresting on a warrant, the officer must show the warrant to the suspect and/or inform the suspect of the charges. When actually making an arrest, the officer must announce that he/she is a police officer.
  - e. In addition to arrest, based upon his/her discretionary judgment of the particular situation, an officer may use available alternatives.
    - 1) District Court or RITT Summons
    - 2) Town of South Kingstown ordinance violation summons
    - 3) Written warning
    - 4) Verbal warning
    - 5) Motor vehicle equipment tag
    - 6) Commitment to an approved public treatment facility
    - 7) Referral to a social service agency

NOTE: Important points to remember: Arrests under RIGL 12-7-6. If there is an active warrant for an individual, a police officer can arrest the suspect without the warrant in his/her possession.

- f. All suspects picked up on an arrest warrant will be brought back to the South Kingstown Police Department to be processed and arraigned. Exception: Suspects may be arraigned at another agency when that agency also has charges; however, if the suspect is released he must be brought back to South Kingstown to be processed. The Prosecution Officer must be notified of the arrest warrant if the suspect is held and remanded to the ACI. An arrest report will be completed on arrestees.
- g. If another department arrests a suspect on a South Kingstown warrant and the suspect is held or remanded to the ACI, the Prosecution Officer must be notified.
- h. During processing, Officers must link the warrant number to the arrest on the first page of the arrest report in IMC so that the warrant is automatically closed out. This will also transfer the warrant information to the arrest.

#### 4. Bench Warrants

- a. Bench Warrant/Court Capias: A warrant issued by the Courts (Superior or District) as opposed to an arrest warrant issued by Police Departments. Normally these are issued after the defendant has been arraigned and for some reason has not responded to subsequent court dates. (Pretrial, Trial, etc...)
- b. When a suspect is arrested on a Bench Warrant:
  - 1) Transport the arrestee to the South Kingstown Police Department for processing.
  - 2) Initiate an Arrest Report number in IMC and entering the Arrest Offense as “Arrested on Warrant”.
  - 3) After processing:
    - a) If the courts are open, the arrestee will be transported to the Washington County Courthouse and turned over to the Sheriff.
    - b) If the courts are closed, then the arrestee can be arraigned by a Justice of the Peace if there is a monetary amount is listed in the warrant. If there is no amount listed in the warrant, then the arrestee may be transported directly to the ACI with a copy of the warrant. If the Bench Warrant originated from Washington County, then it will be the discretion of the shift OIC if they want to house the arrestee overnight if the court is open the following day. The arrestee of a Bench Warrant originating outside of Washington County shall be transported to the ACI.

#### 5. Arrest in Third Party Residence:

If an officer has an active arrest warrant but the arrestee is in a third party residence, the officer cannot enter that premises without a search warrant unless the following conditions exist:

- a. The owner or tenant with rightful authority to do so voluntarily consent to the officer(s) request to enter.
- b. The officer has observed the defendant inside the premises or saw him enter the location.
- c. The officer has first-hand knowledge that defendant is in third party residence (i.e. officer calls residence and defendant answers phone – assuming officer has had the home under surveillance and recognizes the arrestees voice.)
- d. A credible witness advises the officer that defendant is in the home (i.e., girlfriend, ex-wife, etc.).
- e. Exigent circumstances exist (i.e. danger to other occupants, etc.).

NOTE: Remember, if in doubt, keep the location under surveillance and apply for a search warrant.

#### 6. Arrest in an Out-Of-State Jurisdiction

- a. Officer(s) will provide all necessary documentation to assist the department of Attorney General.

- b. When an officer receives information that a wanted person is residing in another state, and the State of Rhode Island represented by the Department of Attorney General authorizes extradition, the following procedure will be followed.
  - 1) The investigating officer will contact the Law Enforcement Agency that has jurisdiction over the location of the arrest.
  - 2) A message will be sent, via the National Law Enforcement Telecommunications System (NLETS) stating the crime(s) for which the subject is wanted and confirming extradition.
  - 3) Once located, the fugitive will be brought before the proper court in the jurisdiction where the arrest was made.
- c. In the event extradition is waived by the fugitive, this department will coordinate with the Attorney General's Extradition Unit for transfer of the fugitive back to Rhode Island.
- d. Should the subject choose to fight extradition, the officer(s) will notify the Rhode Island Department of Attorney General's Extradition Department, which will be responsible for initiating extradition proceedings and preparing a Governor's Warrant.

#### 7. Off-Duty Responsibilities

- a. While off duty within this jurisdiction, it is the responsibility of any SKPD officer to immediately report any suspected or observed criminal activities to on-duty personnel.
- b. Except as allowed by this policy, off-duty officers should avoid, when possible, enforcing violation offenses punishable by a monetary fine only or minor violations such as harassment, disorderly conduct or similar minor infractions. On-duty personnel shall be contacted, in a timely manner, to respond to the situation where an off-duty officer becomes aware of such violations.
- c. When an arrest is necessary, the off-duty arresting officer shall abide by all departmental policies and procedures.
- d. When an arrest is necessary, the off-duty arresting officer shall identify him/herself as a South Kingstown Police Officer, and when practical, present appropriate police identification.
- e. Whenever possible, an officer should avoid making an off-duty arrest when he is personally involved in the incident underlying the arrest.

An example of 'personally involved' would be when an off duty officer, 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 the victim of a crime.

#### 8. Off-Duty Arrests – (in SKPD jurisdiction)

Off-duty officers may make off-duty arrests within the Town of South Kingstown. Pursuant to this policy, officers have the authority to enforce criminal laws of the state and ordinances and regulations of the jurisdiction to which they are appointed.

The officers of this police department have liability protection for on and off duty performance of their official duties. This protection does not extend to willful acts

that cause injury or damage, or to those actions that the police officer knew, or should have known, were in conflict with the established policies or customs of the department.

a. Permitted off-duty arrests

- 1) The arresting officer is the victim of a crime.
- 2) There is an immediate need for the prevention of a crime or the apprehension of a suspect.
- 3) The crime would be charged as an offense requiring a full custodial arrest.
- 4) The arresting officer is in possession of appropriate police identification.

b. Prohibited off-duty arrests

- 1) When engaged in off-duty employment of a non-police nature, and the officer's actions are only in furtherance of the interests of him/herself or the private employer.
- 2) When the arrest is made solely as enforcement of a minor traffic regulation.

9. Off-Duty Arrests (outside SKPD jurisdiction)

- a. The State of Rhode Island has no statutory law, which grants a police officer of a city or town the general authority to act as a police officer throughout the State at all times.
- b. There is no statute in Rhode Island relating to citizens' arrest, but the courts have held that the common law rule allowing such felony arrests would be followed.
- c. Off-duty officers, therefore, may not exercise their authority as police officers to arrest outside the Town of South Kingstown.
- d. Off-duty officers of the South Kingstown Police Department have no lawful authority other than that of a private citizen in other states.

D. Hearsay

1. Officers shall understand the rules by which hearsay can be considered evidence in an investigation.

According to the Virginia Supreme Court, hearsay is "evidence not proceeding from the personal knowledge of the witness, but from the mere repetition of what he has heard others say."

2. Hearsay is generally inadmissible in court.
3. Some hearsay is useful as evidence. Some exceptions to the hearsay Rule, and potential admissibility of certain hearsay include:
  - a. A dying declaration or a statement, oral or written, made by a mortally wounded person who knows that he is about to die and has abandoned hope of recovery.
  - b. Spontaneous declarations, or exclamations of a participant or bystander concerning an incident, made without time for reflection.
  - c. Public records, or reports prepared by public officials under a duty imposed by law or regulation.

E. Constitutional Requirements - General

All officers when conducting criminal investigations shall take all precautions necessary to ensure that all persons involved are afforded their constitutional protections. Officers shall ensure that:

1. All statements or confessions are voluntary and non-coercive.
2. All persons are advised of their rights in accordance with this standing order.
3. All arrested persons are taken promptly before a magistrate for formal charging.
4. All persons accused or suspected of a criminal violation for which they are being interrogated are afforded an opportunity to consult with an attorney if they so desire.

By Order of:

A handwritten signature in black ink, appearing to read "Chief Geaber".

Joseph P. Geaber, Jr.  
Chief of Police