

**River Bend Police Department**  
**Arrest and Transportation of Detainees**  
**General Order 14**  
**Effective Date 05/01/2012**

**14.01**

**Policy:** Police officers are entrusted with the responsibility to enforce the law objectively and without prejudice and are empowered with the authority to perform those acts necessary for effective law enforcement. Police officers must perform their duties within the guidelines and restrictions of their legally mandated authority, which includes the power of arrest. The physical arrest of a person is a legally sanctioned deprivation of that person's constitutionally guaranteed freedom. Physical arrests must conform to those constraints established by law and the procedures described herein.

**14.02**

**Procedure:** North Carolina law mandates many procedures regarding the detention, arrest, transport, and confinement of persons charged or suspected of crimes. All officers are required to be familiar with [\*\*North Carolina General Statute \(NCGS\) 15A-401\*\*](#). Officers shall not make any arrest or detention that they know, or should have known, is not in accordance with law and department policies.

No arrest shall be made except upon probable cause, or upon the service of a valid arrest warrant. No detention shall be made except upon a well-founded belief that the suspect being detained committed, was committing, or was about to commit a crime. An Involuntary Commitment Order is not considered an arrest, however all other sections of 19 apply. (Reference [\*\*NCGS 122C-251c\*\*](#)).

**14.03**

**Limit of Authority:** River Bend police officers shall have full arrest authority as provided by North Carolina General Statutes [\*\*15A 401\*\*](#) and [\*\*90-95.2\*\*](#).

**14.03.01**

**Immediate and Continuous Flight:** River Bend police officers may make an arrest or seizure outside the town limits of River Bend under the following circumstances (Reference [\*\*NCGS 15A-402\(d\)\*\*](#)):

1. If, in an attempt to arrest or detain a person within the Town of River Bend, the person flees across jurisdictional lines and the officer has probable cause to believe the person has committed, is committing or was about to commit a felony, **or**
2. When the person arrested has committed a criminal offense within the Town of River Bend, for which the officer could have arrested the person within that territory, and the arrest is made during such person's immediate and continuous flight.

**14.03.02**

With the exception of continuous flight arrests and situations governed by [\*\*NCGS 15A-734\*\*](#) & [\*\*90-95.2\*\*](#), River Bend police officers outside their jurisdiction have no arrest authority other than that of any private citizen. A River Bend police officer may detain a person who:

1. Has committed a misdemeanor amounting to a breach of the peace or a felony in the officer's presence, **or**
2. The officer has probable cause to believe has committed, is committing, or is about to commit a felony.

Officers detaining a person in accordance with this section must immediately report the detention to the law enforcement agency having jurisdiction so that the case can be referred for prosecution. **Officers are encouraged to contact the agency of jurisdiction prior to taking action if time permits and to avoid taking direct action except in those circumstances where the risk of personal injury to themselves or an innocent party is imminent.**

**14.03.03** Mutual Aid: The jurisdiction of River Bend police officers may be extended by written mutual aid agreements with other law enforcement agencies. (Reference [NCGS 15A-402](#) and GO 208 - Jurisdiction and Mutual Aid)

**14.04** **Alternatives to Physical Arrest, Custody and Confinement:** A satisfactory conclusion to many cases may be reached without resorting to the physical arrest of persons involved. The consideration of arrest alternatives should be an integral part of every investigation. Alternatives to physical arrest, custody and confinement may include:

- A. Release on Citation
- B. Juvenile Diversion Program
- C. Non-Arrest Referral to District Attorney

**14.05** **Release on Citation:** All persons charged with misdemeanors, violations of a county or municipal ordinance, or criminal traffic charges should be released on a citation unless any one or more of the following conditions exists:

- A. Arrested person refuses or fails to sufficiently identify himself or supply required information.
- B. Arresting officer has reason to believe that if the arrested person is not incarcerated, they will constitute a great serious risk to themselves or others.
- C. Arrested person has no community ties to reasonably ensure a court appearance, or there is a substantial belief that the arrested person will refuse to respond to the issued notice.
- D. Arresting officer has a reasonable suspicion that the arrested person may be wanted in another jurisdiction.
- E. Arrested person has previously failed to respond to a citation, or has violated the conditions of any pretrial release program.
- F. Arrested person is charged with D.W.I.
- G. Incarceration is necessary to restore order.

**14.05.01** Release on citation does not preclude the officer from transporting the arrested person to the processing facility for fingerprints and photographs should the officer believe it to be necessary. The arrested person may then be released from the facility.

**14.05.02** Release on a citation **removes** an officer's lawful authority to conduct a search incident to arrest. Whenever a subject is released on a citation, any search must be based on probable cause or with the consent of the person, or the owner of the property to be searched.

**14.05.03** The release of adults on a citation for misdemeanor, ordinance violation or criminal traffic charge shall be accomplished through the use of the appropriate citation forms.

**14.05.04** Any arrest of juveniles should conform to current juvenile procedures as established by the North Carolina General Statutes and department policy. Juveniles 16 years or older charged with criminal traffic offenses should be released on a citation unless they meet the criteria established in 111.05. Juveniles under 16 must be charged on a juvenile petition.

**14.06** **Non-Arrest Referral to District Attorney's Office:** Non-arrested cases may be referred to the District Attorney for prosecution in the following circumstances as described in [NCGS 15A-401.b\(2\)](#):

- A. Misdemeanor or ordinance violations that did not occur in the officer's presence and are not listed as exceptions to arrests without warrant in the North Carolina General Statutes.
- B. Felonies in which probable cause exists but the suspect cannot be located after diligent search.
- C. Cases in which probable cause exists but extenuating circumstances such as injury or illness of the defendant, uncertainty as to the appropriate charges, etc., would suggest prosecutorial review prior to arrest.

**14.06.01** The investigating officer shall obtain supervisory approval of all non-arrested cases prior to referral to the District Attorney's Office. Cases that have not been thoroughly investigated (i.e. no attempt made to contact defendant) or cases that are obviously not appropriate for prosecution shall not be referred and shall be assigned for follow-up as required.

**14.07** **Use of Restraint Devices:** Handcuffs shall be used to secure all arrested persons to prevent escape and ensure their safety as well as the safety of the officer.

**14.07.01** All arrested persons shall be handcuffed as soon as possible after being placed under arrest and, in any event, prior to transporting. It is recommended that arrested persons be handcuffed prior to being searched incident to their arrest. Handcuffs should not be removed except during the booking process at the appropriate law enforcement facility.

**14.07.02** Under normal arrest conditions, all persons taken into custody should be handcuffed with their hands behind their back, palms facing outward with the handcuffs double-locked.

**14.07.03** Exceptions: Under the following circumstances an arrested person may be handcuffed with their hands to their front if:

1. Elderly, or
2. Physically or mentally handicapped, or
3. Obviously ill or injured, or
4. In an advanced stage of pregnancy, **and**
5. Based on the arresting officer's opinion, they pose no apparent threat to the officer, themselves or others.

**14.07.04** **Shackles** or "flexcuffs" (locking plastic restraint straps) may be used to secure the feet of a violent person. Flexcuffs may be used in the case of multiple arrests to secure the hands and/or feet in the absence of handcuffs.

**14.07.05** Documentation of Use of Restraint Device: The use of restraint devices shall be documented in the incident narrative.

**14.08** **Positional Asphyxia:** Positional asphyxia is most simply defined as when the position of a person's body interferes with respiration, resulting in death from asphyxia or suffocation. Any body position that interferes with the muscular or mechanical components of respiration, or that obstructs the airway, may result in positional asphyxia. (Reay DT, Fligner CL, Stilwell AD, Arnold J: Positional asphyxia during law enforcement transport. Am J Forensic Med Pathol, 1992;13(2):90-97.)

**14.08.01** Predisposing Factors to Positional Asphyxia: The following factors may render certain individuals more susceptible to positional asphyxia following a violent struggle, particularly when physical restraint includes use of behind-the-back handcuffing combined with placing the subject in a prone, face down position. The arrested person:

1. Is obese,
2. Has a heart condition,
3. Has a respiratory condition,
4. Has consumed sufficient quantities of alcohol and/or drugs to cause serious impairment,
5. Has been sprayed with OC spray or other chemical agents.

**14.08.02** Advisory Guidelines for Care of Subdued Suspects: To help ensure the safety of suspects and minimize the risk of sudden in-custody death, officers should learn to recognize factors contributing to positional asphyxia. To help minimize the potential for in-custody injury or death, officers should:

1. Follow existing training and policy guidelines for situations involving physical restraint of suspects,
2. As soon as suspects are handcuffed, get them off their stomach,
3. Ask suspects if they have used drugs recently or suffer from any cardiac or respiratory diseases or conditions such as asthma, bronchitis, or emphysema,
4. Monitor all suspects carefully for signs of breathing difficulties or loss of consciousness and immediately call for an emergency medical team if such signs are observed,
5. Obtain medical care upon the suspect's request. Documentation in the incident report **may be required**,
6. If the suspect is turned over to a detention facility, inform that facility's custodians of any known preexisting medical conditions (cardiac, respiratory) or that the suspect requested or needed medical treatment because of respiratory difficulty or loss of unconsciousness.

**NOTE:** **Because of the danger of suffocation, officers shall not allow a suspect who has been sprayed with OC to remain on their stomach while the suspect is in a restraint device.**

**14.09** **Arrest Procedures:** Officers shall ensure that arrested persons are informed of the officer's authority and the reason for arrest. The uniform and badge of uniformed officers should serve in most cases to inform the arrested person of the officer's authority.

**14.09.01** Officers in plainclothes or undercover assignments shall, when possible, display their badge and clearly announce their authority upon making an arrest.

**14.09.02** The arresting officer shall inform the arrested person of the cause for arrest as soon as possible after taking custody and shall ensure that the constitutional rights of the arrested person are observed throughout the arrest process. Miranda warnings shall be given consistent with current case law.

**14.09.03** Law enforcement officers must arrest a person, with or without a warrant, if they have probable cause to believe that the person knowingly violated an *ex parte* domestic violence protective order in the circumstances described in [NCGS §50B-4.1\(b\)](#), such as violating a provision excluding the person from the residence or a household occupied by a victim of domestic violence. N.C. Gen. State §50B-4 and §50B-4.1 provide that a “valid protective order” includes an “emergency” and “*ex parte*” order entered under Chapter 50B. It is a Class A1 misdemeanor for a person to violate an *ex parte* domestic violence protective order.

**14.09.04** The arresting officer shall take the appropriate measures to confirm the true identity of an arrested person. The identity of persons without credible identification should be independently confirmed.

**14.09.05** The arresting officer shall conduct a check through the [National Crime Information Center \(NCIC\)](#), [Division of Criminal Information \(DCI\)](#) and [NCAWARE](#) computer systems for any outstanding warrants prior to releasing or booking an arrested person.

**14.09.06** The arresting officer shall examine any arrested person who appears to be intoxicated or unable to control their physical functions. The officer should ascertain whether the person is wearing a medic-alert bracelet or necklace or has some other visible identifying device that would indicate a medical disability that may be causing the actions of the person. Upon discovering such identification, the officer shall ensure that the person receives appropriate medical treatment. (Reference [NCGS 15A-503](#))

**14.09.07** Upon the arrest of any hearing impaired person, the arresting officer shall seek the services of a qualified interpreter prior to any interrogation. If an interpreter cannot be obtained, all statements must be in writing. The written interrogation and answers shall be preserved as evidence. (Reference [NCGS 8B](#))

**14.09.08** The use of force to effect an arrest shall comply with department policies governing the use of force. (Reference GO 15 - Use of Force and Firearms and 13 - Use of Less Lethal Force)

**14.10** **Arrests without Warrant:** The arrest of any person without a warrant shall comply with the provisions of [NCGS 15A-734](#), which is herein incorporated by reference.

**14.10.01** A felony arrest without a warrant may be made only if the arresting officer has probable cause to believe that a felony has been committed and the person to be arrested committed the offense.

**14.10.02** Probable cause to make a warrantless felony arrest must have been developed personally by the arresting officer or another River Bend police officer and relayed first-hand, in person, by police radio, telephone or in writing to the arresting officer.

**14.10.03** Essential elements of crime of possession of a firearm by a felon are:

1. Purchase, owning, possession of a firearm by a felon are:

- a. If a defendant is the owner or purchaser of a firearm, or has the firearm in his personal custody or control (that is, on his person), this element is satisfied. If not, there must be probable cause to establish "possession" through some other means.
- b. "Possession" of any item can be actual or constructive. Actual possession requires that a party have physical or personal custody of an item. A person has constructive possession of an item when the item is not in his physical custody, but he nonetheless has the power and intent to control its disposition.
- c. If a person has exclusive control of the location where the firearm is found, that is sufficient to provide probable cause for constructive possession. If a person does not have exclusive control over that location, there must be other, incriminating circumstances to establish possession.
- d. Possession of an item may be either sole or joint. However, joint or shared possession exists only upon a showing of some independent and incriminating circumstance, beyond mere association or presence, linking the person to the item.

- 1) Reference *State v. Alston, 131 N.C. App. 514, 519, 508 S.E. 2d 315, 318 (1998)*
- 2) Reference *State v. Boyd, 154 N.C.App. 302, 307, 572 S.E.2d 192, 196 (2002)*

- 2. Of a handgun or other firearm with a barrel length of less than 18 inches or an overall length of less than 26 inches, or any weapon of mass death and destruction;
- 3. By any person having a previous conviction of any crime as statutorily defined; and
- 4. Provided the owning, possession, etc. occurs within five years from the date of the previous conviction, or unconditional discharge from correctional institution, or termination of suspended sentence, probation, or parole upon such conviction, whichever is later.

**14.10.04** Requests from other agencies regarding the arrest of any person within the town limits who has an outstanding warrant not in possession by the arresting officer will be handled in accordance with NCGS 15A-401(a)(2). The officer must inform the person arrested that the warrant has been issued and serve the warrant upon him as soon as possible.

**14.10.05** Arrest without Warrant within a Residence: An arrest without a warrant made within the residence of the suspect or a third person should be reviewed by a supervisor prior to attempting the arrest, time permitting. **Arrests inside the residence of the suspect or a third person may only occur if all of the following conditions exist:**

- 1. Officer has probable cause for the arrest; **and**
- 2. Officer reasonably believes the suspect is present in the residence; **and**
- 3. Suspect or a resident of the residence to be entered consents to the police officer's entry, in which case the police officer does not have to announce his authority and purpose before entering; **or**
- 4. "Exigent circumstances" exist that necessitate an arrest without a warrant that can be articulated and documented by the arresting officer. The officer must also comply with the "knock and announce" requirements described in 14.12. One example of exigent circumstances is an attempt by a police officer to arrest a

suspect in a public place on a felony charge when the suspect flees into his residence or the residence of a third person while the officer is in hot pursuit. Other factors (which must exist simultaneously) that may indicate exigent circumstances include:

- a. Suspect is to be charged with a grave or violent felony **and**,
- b. Likelihood that the delay in obtaining a warrant could cause the escape of the suspect or the destruction of essential evidence or could jeopardize the safety of persons within the residence, the officer, or the public.

**14.11 Arrest with Warrant:** Whenever an officer anticipates making contact with a suspect for the express purpose of serving an arrest warrant, two officers may be assigned at the discretion of the primary officer based on the nature of the warrant.

**14.11.01** Officers will use the radio system, to verify if a [criminal process](#) exists in [NCAWARE](#) and NCIC.

**14.11.02** If the officer finds that a criminal process exists, the officer will confirm with Communications that the criminal process is actively on file.

- a. Officers will serve a non-custodial process in accordance with established procedures.
- b. Officers will effect arrests for [custodial processes](#) in accordance with established procedures including the [Administrative Order filed for 3B Judicial District](#) addressing the development of [NCAWARE](#), an automated electronic repository for criminal process, allowing for the electronic creation, storage and remote access of criminal process.
- c. Officers will retrieve the custodial processes from NCAWARE.

**14.11.03** Identification of the person to be arrested pursuant to an arrest warrant must be confirmed prior to taking a suspect into custody. The following methods may be used for that purpose:

1. Personal knowledge of the arresting officer,
2. Talk to the person, ask them their name
3. Ask the subject for identification (drivers license, ID, Military ID, etc.)
4. Picture of suspect provided with the warrant,
5. Positive identification of suspect from a reliable third party,
6. Description provided on the warrant to the extent that it is sufficient to eliminate any other person, or
7. Other methods that would ensure that the person being arrested is in fact the person named in the warrant.

**14.11.04** The investigating officer shall attempt to confirm the validity and extradition status of all warrants with the originating agency prior to booking the subject into the county jail. The arresting officer should ensure that there is enough biographical information available to develop probable cause to believe that the subject detained is the subject named in the warrant. The officer should also ensure that the arrest is within any geographical limits of extradition specified in the warrant. Warrants over two (2) years old should be carefully scrutinized for current validity.

**14.11.05** Upon developing probable cause to believe that a warrant exists for a person being detained, the investigating officer should place the person under arrest, secure the person according to detainee restraint procedures, and conduct a custodial search prior to beginning the confirmation process. If necessary to ensure the safety of the officer or suspect, or if the confirmation process will be time consuming, the subject may be transported to a River Bend police facility to complete the confirmation process. Once at a police facility, the arresting officer should make all confirmation phone calls, not Communications.

**14.11.06** If, after detaining or arresting a subject on a warrant, the warrant is found to be invalid or the originating agency will not extradite, the arresting officer must release the subject without unnecessary delay and return the subject to the point of arrest if requested. (Reference [NCGS 15A-504](#) and [15A-511 C \(2\)](#))

**14.11.06** Computer Warrant Information: Information on outstanding warrants is available to the officer through three (3) computer systems. Each system may require different degrees of confirmation.

1. [NCIC](#) - The National Crime Information Center contains all out-of-state warrants. In the majority of cases, only felony warrants are entered into NCIC. Some warrants may specify geographical limits on extradition.
  - a. The investigating Officer shall confirm the validity and/or extradition on all NCIC warrants. In the event that an NCIC warrant status can not be confirmed within a reasonable amount of time, generally 30 minutes, the investigating officer will detain the suspect individual and will transport them to the Police Department. The investigating officer will make due and diligent effort to confirm the status of the NCIC warrant while he has custody of the detainee. The following are examples of procedures to confirm the validity of the warrant:
    - 1) Attempt to make telephone contact with the originating agency and request confirmation via fax or electronic mail.
    - 2) Attempt to make contact with the local prosecutorial authority of the originating agency and request confirmation via fax or electronic mail.
    - 3) Have the communications center send AM messages to the originating agency and request confirmation via fax or electronic mail.
    - 4) Contact the District Attorney's Office to pursue a fugitive warrant in the absence of a confirmed NCIC warrant. A fugitive warrant can be issued and will take the place of the NCIC warrant and allow the District Attorney's Office to make arrangements for extradition.
    - 5) Should all attempts to confirm the NCIC warrant fail, the investigating officer shall notify his/her District or Section Commander for authorization to release the detainee. All attempts to confirm the warrant and the Commander's authorization to release will be documented in an incident report.
  - b. In the event the investigating officer fails to confirm or confirms that an NCIC warrant is no longer valid, the detainee should be returned to the location of the detention and released without delay.

2. [DCI](#) - The Division of Criminal Information contains local and state felony and misdemeanor warrants. Validity and extradition between counties should be confirmed prior to transporting to the county jail.
3. [AOC](#) - Administrative Office of the Courts information is available as an investigative tool and should not be relied upon as probable cause for arrest.

**14.11.07** Arrest with Warrant within the Suspect's Residence: An officer may execute an arrest warrant within the residence of the suspect if all of the following conditions exist:

1. Officer reasonably believes the suspect is present in his residence; **and**
2. Officer complies with the knock and announce requirements described in section 14.12

**14.11.08** Arrest with Warrant within the Residence of a Third Person: An arrest of a suspect on an arrest warrant in the residence of a third person may occur only if **all** of the following three circumstances exist:

1. Police officer has a valid search warrant for the third party residence which is executed at the same time as the arrest warrant; **and**
2. Officer reasonably believes the suspect is present in the residence; **and**
3. Officer complies with the "knock and announce" requirements described in section 14.12.

**14.11.09** If the officer has an arrest warrant, then he/she does not need a search warrant if **one** of the following two situations occur:

1. A resident of the residence to be searched consents to the police officer's entry in which case the police officer does not have to announce his authority and purpose before entering; **or**
2. "Exigent circumstances" exist that necessitate an immediate arrest and that can be articulated and documented by the arresting officer. The officer must also comply with the "knock and announce" requirements described in 14.12. One example of an exigent circumstance is an attempt by a police officer to arrest a suspect in a public place on a felony charge when the suspect flees into the residence of a third person while the officer is in hot pursuit. Other factors (which must exist simultaneously) that may indicate exigent circumstances include
  - a. Suspect is to be charged with a grave or violent felony and,
  - b. Likelihood that the delay in obtaining a warrant could cause the escape of the suspect or the destruction of essential evidence or could jeopardize the safety of persons within the residence, the officer, or the public.

**14.12** **Knock and Announce Requirements:** Unless the suspect or a resident consents to the officer's entry, a police officer attempting to make an arrest within a residence must first announce his authority and purpose prior to entering the residence. If, after announcing his authority and purpose, the police officer fails to gain admittance, he/she may use that force which is reasonable and necessary to enter any building or property where the person to be arrested is or is reasonably believed to be. Officers shall not attempt a non-consensual, forcible entry into a residence to effect an arrest without a search warrant when the offense for which the suspect is sought is a misdemeanor or non-criminal offense. (Reference [NCGS 15A-249](#))

**14.12.01** Exceptions to the Knock and Announce Requirements: A police officer need not announce his authority and purpose if **any one** of the following situations exist:

1. Police officer can articulate and document facts known to him that would justify being virtually certain that the occupants already know of his presence and purpose such that his announcement of his authority and purpose would merely be a useless gesture; **or**
2. "Exigent circumstances" exist requiring immediate entry. For example, the police officer has a reasonable and good faith belief that announcement of his presence and purpose would increase the peril of those within the residence or increase the peril to the officer, or would result in the destruction of evidence or the escape of the suspect.
3. Officer has a properly issued "No Knock Search Warrant" in his possession for the search of the described residence. (Reference GO 17 - Search and Seizure)

**14.13** **Off-Duty Arrests:** Off-duty officers who become involved in any situation requiring police action shall, at the earliest opportunity, notify Communications and request a patrol unit. Officers are discouraged from making traffic or misdemeanor arrests off-duty unless there is a serious danger of immediate harm to a person unless action is taken. Off-duty officers should, if at all possible, await the arrival of the patrol unit before taking any police action, including making an arrest. (Reference 14.03.01)

**14.13.01** Off-duty officers who make an arrest shall immediately notify Communications and request a patrol unit for transport. The completion of required paperwork and arrest documents shall be the responsibility of the arresting officer.

**14.14** **Search Incident to Arrest:** All arrested persons taken into custody shall be thoroughly searched for weapons and contraband prior to any transporting or incarceration. A search incident to arrest may also include the area within the person's immediate presence at the time of arrest consistent with applicable law. (Reference GO 17 - Search and Seizure)

**14.14.01** A search incident to arrest shall be for the purpose of:

1. Protecting officers,
2. Preventing escape,
3. Discovering the fruits of a crime.

**14.14.02** The arresting officer shall separate the arrested person from any purse, briefcase, package or other items the arrested person may have at the time of arrest. Such items shall be searched incidental to arrest consistent with applicable law. Call logs and text messages of cellular telephones can be searched, incident to arrest, without a warrant as new messages and phone numbers will eventually "crowd out" earlier ones from the telephone's memory, effectively destroying potentially relevant evidence. Police cannot search the address book in a telephone incident to arrest, since it is not subject to "crowding out". Other information which would not be subject to the "crowding out" reference should only be accessed with a warrant. (Reference [United States v. Murphy, F.3d \(4<sup>th</sup> Cir., January 15, 2009\)](#)

**14.14.03** Officers may search a vehicle incident to arrest only under two circumstances:

1. The arrestee is unsecured and within reaching distance of the passenger compartment when the search (not the arrest) is conducted. The typical case in which an officer secures the arrestee with handcuffs and places the arrestee in a patrol vehicle will not

satisfy this circumstance. Even if a handcuffed arrestee is not placed in a patrol car, it is not likely that the arrestee has realistic access to the vehicle absent unusual circumstances.

**NOTE:** **Although this circumstance is permitted under Gant, allowing a person who is to be arrested to remain unsecured and in a position that gives him/her access to weapons in the vehicle just so that we can search is unacceptable and unnecessarily risks officer safety.**

2. There is reasonable belief that arrest related evidence might be found in the vehicle.

**14.14.04** If neither of the above circumstances exists to permit the search of a vehicle under Gant, there are other Fourth Amendment justifications that may authorize a warrantless search of a vehicle:

1. There is probable cause to believe that evidence of criminal activity exists in the vehicle;
2. Reasonable suspicion exists that a person, whether or not an arrestee, is dangerous and might access the vehicle to gain immediate control of weapons (i.e. a “car frisk”);
3. Impoundment and inventory of a vehicle, which must be conducted under standard operating procedures that are reasonable under the Fourth Amendment;
4. Consent to search; or
5. After stopping a vehicle for traffic violations and the driver has left the vehicle, entering the vehicle in order to remove papers that obscure the vehicle’s VIN number.

## **14.15 Processing Procedures**

**14.15.01** Detainees will be fingerprinted in accordance with the [Plan for Fingerprinting Criminal Defendants and](#)

**14.15.02** As indicated in the above referenced Judicial Order, no arresting agency shall obtain a photograph or fingerprints from a person charged with a Class 2 or 3 misdemeanor under Chapter 20 of the General Statutes “Motor Vehicles”.

**14.16** **Inter-jurisdictional Cases:** Whenever practical, arrests by River Bend police officers outside their jurisdiction, other than fresh pursuit cases, will require that the law enforcement agency having jurisdiction at the location of the arrest be notified prior to attempting the arrest. An officer from the agency having jurisdiction should be requested to accompany the River Bend officer(s) during the arrest unless the authority of the River Bend officer in that jurisdiction is established by: [NCGS 15A-402](#) & [90-95.2](#).

**14.16.01** River Bend police officers will assist other law enforcement agencies in the arrest of persons within the Town of River Bend upon request by the agency.

**14.16.02** A request from another law enforcement agency for River Bend police officers to arrest a person shall be treated only as a request to locate. No person will be arrested unless the River Bend officers have or develop probable cause for the arrest or have knowledge that a valid arrest warrant exists. A River Bend police officer acting on information from another law enforcement agency (i.e. BOLO broadcast) may detain a suspect under temporary investigative detention for a reasonable period of time. If, after inquiry into the circumstances that prompted the temporary detention, no probable cause for the arrest of the person shall appear, the person shall be released. A Field Interview Report shall be completed, with a photograph of the subject attached if possible.

14.17

**Release from Arrest:**

- A. Dissipation of Probable Cause Contemporaneous to Arrest: If, during the course of an investigation that has resulted in an arrest, additional information comes to the attention of the officer that negates the original probable cause for arrest, and no additional probable cause has been developed in support of an arrest for any other charges, the arrested person will be released immediately. The arrested person shall be transported to the original point of arrest upon request. **The arresting officer shall notify The Chief immediately and complete a case report and Defensive Tactics Review (Form #11) detailing the incident.**
- B. Dissipation of Probable Cause After Arrest: If, at some time following the arrest and processing of a suspect who remains in a detention facility, additional information comes to the attention of the officer that dissipates the original probable cause for the arrest, the charging officer will immediately notify and brief his/her chain of command up to and including the Division Commander. **The case report and all associated documentation shall be provided to the Chief for immediate review. Upon concurrence that probable cause no longer exists, it shall be determined whether there is probable cause to support any other charges that may be pending. If so those charges will be made contemporaneously with efforts to have the charge(s) in question dismissed. Following the review the charging officer will contact the District Attorney's office at the earliest possible time to request dismissal of the applicable charges.** In addition, the charging officer will make every attempt to have the defendant released from custody assuming no other charges were made that would cause the defendant to remain in custody. The charging officer will prepare a supplement to the case report documenting all actions taken and attaching copies of all court and district attorney documents.
- C. The same procedures will be followed by the arresting officer even when the defendant has secured bond and has been released from custody. If additional charges are made that justify the arrest of the defendant, department arrest and processing procedures will be followed.

14.18

**Arrest of Ill or Injured Persons:** An officer who arrests any person who is ill or injured or becomes ill or injured during the arrest process shall ensure that the person receives the appropriate medical care as soon as practical.

14.18.01

Prior to the arrest of any person who is obviously ill or injured, the arresting officer should consult with a supervisor concerning the necessity or advisability of an arrest.

14.18.02

Ill or injured persons suspected of a misdemeanor should, in most cases, be released on a citation or pending a non-arrest referral to the District Attorney's Office. (Reference 14.04)

14.18.03

Ill or injured persons suspected of a felony should, in most cases, not be charged until the illness or injury has been satisfactorily treated. If the illness or injury occurred as a result of or during an arrest, the officer must maintain custody of the detainee during treatment until custody is officially transferred to confinement officials.

14.18.04

If the person was involved in a violent crime, either misdemeanor or felony, and it is determined that the person still constitutes a danger to hospital staff or other patients, the officer must maintain custody of the person during treatment or until custody can be transferred to the confinement officials.

**14.18.05** Detainees who are taken for immediate treatment should be closely monitored. Opportunities for escape, suicide and assault on hospital personnel or the transporting officer should be guarded against and will be more prevalent if the detainee is unrestrained and/or out of sight during treatment. If restraints should be removed for treatment, caution should be exercised while the detainee is unfettered. Only under unusual circumstances will the detainee be allowed out of the transporting officer's sight.

**14.18.06** In the event a detainee must be admitted to a medical facility, the arresting officer shall arrange for the transport of the detainee to the nearest medical facility equipped to handle the injury or illness. The arresting officer or his/her supervisor must contact the Chief immediately to ensure that adequate personnel are available to guard the detainee for the time period required. Some issues that should be considered include:

1. Type and period of treatment,
2. Degree of risk the detainee poses,
3. Should the detainee be isolated from other patients,
4. Will 24 hour coverage be required,
5. Continued use of restraints,
6. Meals and eating utensils,
7. Monitoring all personal contact with the detainee,
8. Prohibiting visitors and telephone contact with the detainee.

**14.18.07** If, due to the serious medical condition of the detainee, medical personnel determine that he/she must be transported to a hospital other than CarolinaEast Medical Center, supervisory personnel should attempt to obtain permission for an officer to travel with the detainee. If that is not possible, officers will be dispatched immediately to the destination of the detainee and shall begin continued custody as soon as they arrive. Officers performing guard duty of a detainee in another jurisdiction shall make contact with the agency of jurisdiction as soon as possible to request whatever assistance can be provided.

**14.18.08** Officers that are assigned to guard a detainee should be cautioned not to become lax while performing their duty. Officers should avoid fraternizing with the detainee at any time. Frequent rotation of officers assigned to guard the detainee and close supervision by supervisory personnel is recommended.

**14.18.09** The Chief shall contact the Magistrate in an attempt to arrange for Magistrate to come to the hospital to charge the detainee and issue an order for arrest. In addition, the Craven County Sheriff's Office will be contacted to ensure they have adequate personnel to assume custody of the detainee or to make the necessary arrangements to do so. If it is not possible to make the above described arrangements, then the responsibility to guard the detainee until such time as he/she is released from the hospital remains with the River Bend Police Department. At no time will custody of the detainee be transferred to the CarolinaEast Medical Center Police.

**14.18.10** When released from treatment, the detainee's condition shall be carefully documented. All instructions for future treatment and medication should be obtained in writing from the attending physician and transmitted to the personnel at the confinement facility. Prior to moving the detainee, the transporting officer will conduct a thorough search of the detainee and his/her belongings and apply the appropriate restraints.

**14.18.11** Financial Responsibility: A person who is ill, wounded or injured at the time of or during their arrest shall be solely responsible for any and all expenses incurred as a result of medical care, treatment, hospitalization, and transportation. (Reference [NCGS 15A-503\(c\)](#))

**14.18.12** River Bend police officers shall not commit the Town to the payment of any medical bills incurred by an arrested person.

**14.19** **Arrest of Legislators:** Members of the United States Congress and the North Carolina legislature are, in all cases except treason, felonies, and breach of the peace, privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same.

**14.19.01** This privilege from arrest does not prevent an officer from making an otherwise legal arrest. However, the arrested person who enjoys such privilege may have the arrest set aside. The arrest remains valid until voided.

**14.19** **Arrest of Foreign Officials:** As directed by international law and federal statute, diplomatic and consular officers are accorded certain privileges, rights, and immunities. It is also a well-established principle of international law that, without prejudice to their privileges and immunities, it is the duty of those foreign officials to respect local laws and regulations.

**14.19.01** Diplomatic Immunity: Diplomatic immunity is broadly defined as the freedom from local jurisdiction accorded to duly accredited diplomatic officers, their families, staff, and servants. Persons enjoying diplomatic immunity may not be arrested, detained, or prosecuted for any civil or criminal offense. Diplomatic officers are generally identified by one of the following titles: Ambassador, Minister, Minister Consular, Consular, First Secretary, Second Secretary, Third Secretary, and Attaché.

**14.19.02** Consular Privilege: Consular officers are official representatives of foreign governments but enjoy only limited immunities as opposed to diplomatic officers who enjoy unlimited immunity. Limited immunity extends only to the consular officer, and not to his family, staff or servants. Consular officers may not be arrested or detained for any criminal offense except felonies that endanger the public safety. Prosecutions for other offenses may ensue only upon the issuance of an arrest warrant. Consular officers are subject to being cited for civil infractions. Consular officers are generally identified by one of the following titles: Consul General, Deputy Consul General, Consul and Vice Consul.

**14.9.03** Credentials issued by the State Department of the federal government or the North Carolina Department of State may identify most diplomatic and consular officers.

**NOTE:** Honorary Consuls do not enjoy diplomatic immunity.

**14.19.04** Procedure: An officer who in the course of an investigation, develops probable cause for the arrest of a person who claims to be a diplomatic or consular officer, shall inform his supervisor prior to any arrest. The supervisor will ensure that the United States State Department is contacted and the status of the person is confirmed prior to any arrest.

**14.19.05** Foreign nationals who do not have diplomatic immunity may be detained and arrested for any violation of law. The arrest of a foreign national requires the notification of the nearest consul or the embassy in Washington, D.C., of the nation concerned. The North Carolina Department of State or the [U.S. Department of State](#) will provide assistance with contact phone numbers and addresses, when necessary.

**14.20** **Arrests of Illegal Aliens:** Local law enforcement officers have no authority to enforce federal immigration laws. Cases involving possible violations of immigration laws should be referred to the nearest office of Immigration and Customs Enforcement (ICE).

**14.20.01** An officer who makes contact with a person suspected of being an illegal alien, **but who has not committed a violation of state law or municipal ordinance**, shall not forcibly detain the person. However, nothing herein prohibits an officer from requesting the voluntary cooperation of the suspected illegal alien in verifying his or her status. In such instances, the person suspected of being an illegal alien shall not be voluntarily detained for more time than is necessary and reasonable to verify legal status or obtain an "immigration hold" from ICE. Should the person suspected of being an illegal alien refuse to cooperate they shall be allowed to leave. All information obtained as a result of the contact should be forwarded to ICE.

**14.20.02** Illegal aliens suspected of committing a violation of state law or municipal ordinance may be detained, interviewed, arrested, and booked as any other person. Illegal aliens enjoy all the rights and privileges of any other citizen of the United States including their Miranda warnings. If the officer is unable to communicate with the suspect, an interpreter shall be utilized.

**14.21** **Vehicle Inspections:** All vehicles regularly used for detainee transport will be inspected prior to the beginning and at the end of each tour of duty. In addition, vehicles will be inspected before an arrested person is placed into the vehicle and after the arrested person is removed from the vehicle.

**14.21.01** Following are the minimum search requirements:

1. Inspect the interior of the vehicle, windows, doors, latches, and safety screens to ensure that there is no damage and that they are secure.
2. Search the interior thoroughly for any weapons or contraband that may have been left by the detainee. Inspection to include the back seat area of the vehicle which will consist of looking under the front seats, looking in the back floor and lifting the rear seat and inspecting the area underneath the rear seat, also the rear window area will be inspected.
3. If contraband has been discovered, take appropriate action with regard to charges against the arrested person, placing contraband into evidence, etc.

**14.22** **Transporting Detainees:** Officers shall take every safety precaution and follow all accepted procedures when transporting arrested persons in order to prevent escape and protect the officer and detainee from injury.

**14.22.01** Arrested persons shall be transported only in police vehicles that have been modified to prevent escape or detainee transport vans, except under extreme emergencies where immediate transportation is required and there are no appropriate police vehicles available. An example might be the removal of the arrested person from the area to prevent the escalation of a violent situation. Only sworn personnel will transport arrested persons.

**14.22.02** Arrested persons shall be searched and secured by the transporting officer according to the provisions of this General Order prior to transporting. Prior searches by other officers will not relieve the transporting officer of his/her responsibility to search and secure all arrested persons he/she transports.

**14.22.03** When placing a detainee into an approved police vehicle, the detainee will be handcuffed with his/her hands behind their back (exceptions as described in 14.07.03), the officer will open the rear passenger door and assist the detainee into the vehicle, while at all times keeping physical control of the detainee, once the detainee is in the vehicle the officer will secure the detainee in the vehicle with a seatbelt.

**14.22.04** In police vehicles equipped with detainee partitions, the following procedures apply:

1. Arrested persons shall be restrained with handcuffs at all times, except as indicated in 14.07.03.
2. Arrested persons shall be secured in seat belts and transported in the back seat behind the partition.
3. Arrested persons will not be transported without a seat belt.

**NOTE:** **Arrested persons will not be handcuffed to any part of the vehicle.**

**14.22.05** In police vehicles without detainee partitions, the following procedures shall apply:

1. Arrested persons shall be restrained with handcuffs at all times, except as indicated in 14.07.03.
2. One officer shall transport no more than one detainee. The arrested person shall be seated in the right rear seat.
3. When two officers are transporting one detainee, the arrested person shall be seated in the right rear seat with the second officer in the left rear seat.
4. When two officers are transporting two detainees, the arrested persons shall be seated in the right front and right rear seats with the second officer in the left rear.
5. No more than two detainees may be transported in any vehicle not equipped with detainee partitions.
6. In all situations where arrested persons are transported in a police vehicle without detainee partitions, all detainees must be secured by seat belts.

**NOTE:** **Arrested persons will not be handcuffed to any part of the vehicle.**

**14.22.06** When taking a detainee out of an approved police vehicle, the officer shall unlock his/her doors and open the front passenger door and leave it open. Open the rear passenger door and take the seatbelt off the detainee, then assist the detainee out of the vehicle. Have the detainee face away from the officer, the officer takes control of the detainee by holding the handcuffs with the officer's weak hand, then closes the rear passenger door. While holding the detainee by the handcuffs have the detainee walk backwards towards the front passenger door, lock the vehicle using the electronic locks if so equipped and close front passenger door.

**14.22.07** The transporting officer shall search the vehicle for weapons and evidence prior to transporting and immediately after transport. Appropriate action will be taken regarding weapons or contraband discovered subsequent to a search after transport.

**14.22.08** Male and female arrested persons shall not be transported in the same vehicle unless they were arrested in the same incident or unless they can be safely separated by a detainee partition within the transporting vehicle, and then only with supervisory approval.

**14.22.09** Except in emergency situations, adult and juvenile arrested persons shall not be transported in the same vehicle unless they were arrested in the same incident.

**14.22.10** Any decision to transport multiple detainees in a single vehicle should take into consideration sound safety precautions including such factors as the temperament of the detainees, the nature of the charges, etc. and shall conform to the limitations established in this section.

**14.22.11** When transporting juveniles or arrested persons of the opposite sex, the transporting officer shall advise Communications by radio of the beginning and ending locations and mileage.

**14.22.12** An officer transporting a detainee shall utilize the most direct route to his/her destination and shall not respond to any call for service, make any traffic stops, or cause other delays except as follows:

1. When there is a serious, immediate risk of harm to a third person if aid is not rendered, **and**
2. The risk to the detainee and transporting officer is minimal.

**14.22.13** The transporting officer shall maintain continuous visual and physical control of all arrested persons in their custody until they are secured at a receiving facility. An arrested person being transported shall never be left unattended.

**14.22.14** Once secured in a transport vehicle, the arrested persons shall not be permitted to communicate with any person other than police officers.

**14.22.15** Officers shall inform the magistrate and the booking officer (jailer) of any threats made by the arrested person toward any member of the judicial community or any potential security threats that the arrested person poses.

**14.24** **Transport of Ill, Injured or Handicapped Persons:** In situations requiring the transport of arrested persons who are ill, injured or handicapped, the arresting officer will ensure that the medical needs of the arrested person are promptly attended to prior to transport.

**14.24.01** Arrested persons who are seriously ill, injured or handicapped should be transported by ambulance to the hospital or receiving facility. In such cases, one or more officers, as required, shall accompany the arrested person in the ambulance.

**14.24.02** The use of restraining devices on ill, injured, or handicapped persons should not be of a nature to further aggravate the illness, injury, or handicap. Should conventional restraining devices be inappropriate, alternate means of restraining and transport should be utilized.

**14.24.03** Arrested persons who are mentally ill and who pose a danger to themselves or the officer, or persons who are physically handicapped may require special transport and restraint procedures. This may include the use of shackles or flexcuffs in addition to handcuffs. The use of restraint devices should be limited to those that would not aggravate existing medical conditions. In situations involving persons who cannot be safely transported by conventional means, the arresting officer should request assistance from fire rescue personnel who are equipped to properly restrain such persons.

**14.25** **Escapes:** In the event that an arrested person flees from custody, the officer who last had custody of the escapee shall:

- A. Immediately notify Communications providing all relevant information including the name of the escapee, their description and their last known direction of travel.
- B. Immediately notify his/her supervisor.
- C. Make every reasonable effort to recapture the fleeing suspect including requesting additional personnel, K-9 units and other appropriate resources such as aircraft.
- D. Document the facts surrounding the escape in an incident report.
- E. Complete other reports or memoranda as directed by supervisory authority.
- F. If the detainee is immediately recaptured, make all additional appropriate charges.
- G. Ensure that arrangements are made for the issuance of an arrest warrant.
- H. In the event the fleeing suspect is not immediately recaptured, ensure that the appropriate BOLO's are disseminated and entries are made into NCIC/DCI.

**14.25.01** Upon notification of the escape of an arrested person, Communications shall be responsible for the following:

1. Notify the Chief of Police
2. Notify and request assistance as required from the law enforcement agency having jurisdiction if the escape occurred outside the River Bend Town Limits.
3. Make the appropriate entries in the NCIC and DCI systems.

**14.26** **Release of Detainee to Confinement Facility:** Upon securing a detainee at any confinement or correctional facility, the officer shall adhere to procedures of that facility for weapon storage and removal of restraints before placing the detainee in the cell. The Arresting Officer will be responsible for the security of detainees' personal property or property under detainees' control at the time of arrest. The officer shall ensure that such property is stored in accordance with current departmental policy and procedure or released to the appropriate official at the facility. The arresting officer shall deliver all documentation for the detainee transaction to the facility.

**The officer must advise the receiving agency of any potential medical or security hazards while maintaining compliance with current HIPA laws.**

**END**