

# WINTER HAVEN POLICE DEPARTMENT

## GENERAL ORDER 1.3

### LIMITS OF AUTHORITY

**ACCREDITATION STANDARDS:** CALEA – 1.2.1, 1.2.3, 1.2.4, 1.2.5, 1.2.6, 1.2.7, 1.2.9; CFA 2.02, 2.06

**EFFECTIVE DATE:** March 14, 1995

**RESCINDS:** G.O. 1.3, April 20, 2017 and all applicable Amended/Temporary Orders prior to January 5, 2018

**LAST REVISED DATE:** January 5, 2018

---

#### **CONTENTS**

This General Order contains the following numbered sections:

- I. Provisions for a Physical Arrest
  - II. Discretion
  - III. Alternatives to Arrest
  - IV. Bias Based Profiling
  - V. Definitions
- 

#### **POLICY**

It shall be the policy of the Winter Haven Police Department to operate pursuant to authority vested by Florida State Statutes and Municipal Ordinances.

#### **PURPOSE**

The purpose of this General Order is to define the scope and limits of the department's law enforcement authority, provide guidelines related to the use of authority, and the discretion sworn members may use as alternatives to physical arrest.

#### **SCOPE**

This General Order shall apply to all members of the Winter Haven Police Department.

#### **DISCUSSION**

The United States Constitution, the Florida Constitution, Florida State Statutes, and the Winter Haven City Charter define the scope and authority as it pertains to the enforcement of laws, statutes, and ordinances.

Section 3 of the City of Winter Haven Charter, establishes the City of Winter Haven as a municipal government, while Section 29 of the Charter creates the Police Department. The City of Winter Haven is an employing agency in accordance with Florida State Statute 943.10(4) with the constitutional or statutory authority to employ or appoint police officers.

## **PROCEDURE**

### **I. Provisions for a Physical Arrest**

- A.** If a violation of the law occurred, it is the responsibility of a police officer, after considering the tactical situation, to take all steps reasonable, necessary and consistent with that officer's assignment regardless of a victim's unwillingness to file charges to affect an arrest. In cases where witnesses exist or when the victim can be called as a witness, officers of the Department are encouraged to file charges. (CALEA 1.2.1)
- B.** Florida State Statute 901.15 provides authority for law enforcement officers to make arrests. (CALEA 1.2.5)
- C.** When an arrest is made by a member they shall complete a written case and arrest report. (CALEA 1.2.5a)

### **II. Discretion**

- A.** Officers are cautioned to use discretion in the performance of their assigned duties, taking into consideration the conditions present at the time, the constraints of existing policy, statutes, law, ordinances pertaining to the situation, the available alternatives and direction from supervisors.
- B.** While arrest and transportation to the county jail is the preferred method, persons arrested for misdemeanors, city ordinance violations or criminal traffic offenses may be released upon execution of a promise to appear in court, if circumstances dictate.
  - 1.** An accused person who has been properly identified and refuses to sign a Notice to Appear/Criminal Traffic Citation or provide sufficient information for a Notice to Appear shall be arrested and transported and booked in the county jail.
  - 2.** The decision regarding an arrest should be made after careful consideration of the following:
    - a.** Whether the arrest would cause a greater risk of harm to the general public than not arresting the offender;
    - b.** Whether the offense can best be dealt with through informal warnings, i.e., warnings or talking to the parents of a juvenile offender;
    - c.** The seriousness of the crime committed; and
    - d.** Whether public empathy may be enhanced by careful use of discretion and potential ill will can be avoided.
- C.** If the arresting officer plans to release the defendant after securing a signature on a Notice to Appear, the following procedure shall be followed:
  - 1.** The officer shall obtain positive identification from the accused.
  - 2.** The following information shall be included on the Notice to Appear:

- a. The defendant's name, date of birth, employer (if applicable), correct address; and telephone number
- b. All witnesses' names, correct addresses, and telephone number;
- c. Probable Cause
- d. Any tangible evidence impounded;
- e. The correct statute or ordinance;
- f. Thumb or fingerprint; and
- g. All required court information

### **III. Alternatives to Arrest (CFA 2.02)**

- A. Not all arrestable offenses require the incarceration of the offender. Alternatives to arrest and pre-arraignment confinement may be utilized. These include but are not limited to:
  - 1. Subjects committing offenses under the influence of alcoholic beverages, narcotics, or suffering from mental disorders, may be transferred to the appropriate treatment facility:
    - a. Officers utilizing the Marchman Act shall complete an Offense Incident Report and transport the subject to the primary alcohol receiving center or hospital.
    - b. Officers utilizing the Baker Act shall complete an Offense Incident Report and transport the subject to nearest receiving facility.
  - 2. The issuance of a citation or Notice to Appear for misdemeanors or violation of ordinances in accordance with the guidelines of this order;
  - 3. The informal resolution of the problem;
  - 4. A verbal warning prohibiting the conduct;
  - 5. Referral to an authorized diversionary program; and
  - 6. Juveniles who may be released to the custody of a parent or legal guardian, as outlined in General Order 44.1- Juvenile Operations.

### **IV. Bias Based Profiling**

- A. This activity is defined as the selection of individuals based solely on a trait common to group for enforcement action. This includes, but not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group. (CFA 2.06c)
  - 1. A legitimate objective of law enforcement agencies is protecting the public by enforcing the law in a fair and impartial manner, recognizing both the statutory and judicial limitations of police authority, while protecting the rights of all

persons. To this end, enforcement action, including but not limited to vehicle stops, stop and frisk of an individual, arrests, searches and seizures, the application of force, other field contacts and the initiation of asset seizure and forfeiture proceedings must be based solely on law, Department policy and articulated facts. The Department does not condone the use of any bias based profiling, as it is unethical. Additionally, bias based profiling alienates citizens, fosters distrust of law enforcement by the community, and invites media scrutiny, legislative action and judicial intervention. (CALEA 1.2.9a)(CFA 2.06)

2. Police officers of this Department will focus on a person's conduct or other specific suspect information. They must have reasonable suspicion supported by specific articulated facts that the person contacted regarding their identification, activity or location has been, is, or is about to commit a crime, or is currently presenting a threat to the safety of themselves or others.
3. Training of Department members shall include but not be limited to proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, the laws governing search and seizure, and interpersonal communications skills, field contacts, traffic stops, forfeiture, discrimination, and community support. (CALEA 1.2.9b)(CFA 2.06a)
4. Any person may file a complaint with the Department if they feel they have been stopped or searched based on racial, ethnic or gender based profiling, and no person shall be discouraged, intimidated or coerced from filing such a complaint or discriminated against because they have filed such a complaint. Complaint procedures and their investigations are outlined in General Order 52.1. (CFA 2.06f)
  - a. Annually; the Department shall conduct an administrative review of agency practices involving bias-based profiling, which shall include forfeiture, traffic stops, searches and seizures and handling of complaints from the public. (CALEA 1.2.9d)(CFA 2.06e)
  - b. Periodically, supervisors shall review profiling complaints, reports filed on stops by officers, respond at random to back up officers, respond at random to back up officers on police actions and shall take appropriate action whenever it appears that this policy is being violated. They shall be particularly alert to any pattern or practice of bias based profiling by individual officers or groups. If identified, disciplinary action shall be taken as outlined in General Order 26.1. (CALEA 1.2.9c)(CFA 2.06b)
5. The Department will make available to the public information pamphlets regarding interacting with law enforcement officials and procedures to file a commendation or complaint on a Department member. These pamphlets are available in the lobby of the Police Department as well as provided to members to distribute to citizens they may come in contact with. Other avenues to disseminate this information may include but not be limited to meetings with civic groups, crime watch and citizen police academy programs. (CFA 2.06d)

## V. Definitions

- A. *Discretion* – The authority to make decisions and choices; the exercising of sound judgment.

- B. *Empathy* – Ability to share in another’s emotions or feelings; understanding.
- C. *Incarceration* – To confine in jail.
- D. *Reasonable Suspicion* – The facts or circumstances a member knows, or should know, which areas such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances. (CFA 2.06c)

APPROVED   
Charles E Bird  
CHIEF OF POLICE