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			Distribution: All
Title: ARREST/NOTICE TO APPEAR		Section: Arrest/Detention	
Issued: 4/24/2012	Effective: 5/2/2012	Revised: 9/22/2016	
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CALEA References: 1.2.1, 1.2.5, 1.2.6, 1.2.7, 61.1.2, 61.1.3, 61.1.4, 61.1.5, 74.1.3b, 74.1.3d, 74.3.1, 74.3.2			
Review: Semi-Annual	Authority: Chief Michael A. Keller <i>M.A.K.</i>		

I. Purpose

The purpose of this General Order is to establish guidelines for making arrests and issuing Notices to Appear (NTA).

II. Policy

Andover Police Officers may exercise their legally mandated authority and powers of arrest anywhere within the city limits of Andover, Kansas. They may also exercise these powers outside of the city limits when in fresh pursuit of a person, when responding to requests for assistance made by officials having proper jurisdictional authority, or when acting under the limited and defined scope of a law enforcement commission issued by a Sheriff of Butler or another county. Officers are required to adhere to Kansas Statutes Annotated and department orders governing custodial arrests and/or the issuance of Notices to Appear (NTA).

III. Definitions

- A. Arrest:** The taking of a person into custody in order that the person may be forthcoming to answer for the commission of a crime. The issuing of a notice to appear is not an arrest.
- B. Notice to Appear (NTA):** A written request, issued by a law enforcement officer, that a person appear before a designated court at a stated time and place.

IV. Regulations

- A.** When an arrest is made or a notice to appear issued, the arresting/citing officer shall explain the facts pertaining to the situation and reason for the action taken to the arrested/cited person [B].
- B.** Officers shall treat all prisoners humanely and shall do everything possible to ensure their safety while in custody [C].
- C.** Members of the department shall transport arrested or detained persons to the proper facility by a direct route and without undue delay, unless directed by a supervisor [B].

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V. Procedures

A. Limits of Authority

1. Officers of the department may exercise their powers as law enforcement officers anywhere within the city limits of Andover, Kansas. They may also exercise these powers outside of the city limits when in fresh pursuit of a person, when responding to requests for assistance made by officials having proper jurisdictional authority, or when acting under the limited and defined scope of a law enforcement commission issued by a Sheriff of Butler or another county (1.2.1).
2. The department does not employ different categories of sworn personnel. Officers only have jurisdiction in the situations described above. Should they attempt to exercise their law enforcement authority elsewhere, they act only with the authority of a private citizen.
3. An officer may arrest a person under any of the following circumstances:
 - a. The officer has a warrant commanding the person be arrested.
 - b. The officer has probable cause to believe that a warrant for the person's arrest has been issued in this state or in another jurisdiction for a felony committed therein.
 - c. The officer has probable cause to believe that the person is committing or has committed a felony.
 - d. The officer has probable cause to believe that the person is committing or has committed a misdemeanor, and the officer has probable cause to believe that:
 - i. The person will not be apprehended or evidence of the crime will be irretrievably lost unless the person is immediately arrested.
 - ii. The person may cause injury to self or others or damage to property unless immediately arrested;
 - iii. The person intentionally inflicted bodily harm to another person; or
 - iv. Any crime, except a curfew, traffic or cigarette or tobacco infraction, has been or is being committed by the person in the officer's view.
4. Only sworn officers may execute arrest warrants (74.3.2).

B. Arrest Procedures

1. Arrests of juveniles will be handled according to General Order O2502 Juvenile Operations.
2. When an officer makes a misdemeanor arrest or makes an arrest based upon a municipal court warrant and it is reasonably certain the person arrested will be able to post bond or will be released on their own recognizance, the officer will:
 - a. Transport the arrestee to the Andover Police Department;
 - b. Complete an arrest report (1.2.5a);

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- c. Obtain fingerprints and electronically submit fingerprints, if available. If not available, officers will obtain inked prints and submit them to records for processing (1.2.5b);
- d. Take a photograph of the arrestee (1.2.5c);
- e. Print a Kansas Adult Disposition Report (KADR) if fingerprints were taken electronically. If inked fingerprints were taken, complete a KADR;
- f. Complete an NTA and serve the arrestee with the NTA; and
- g. Submit the NTA by downloading the electronic ticket or if the electronic ticket is not available, submit a written NTA and KADR to the Communications Officer for processing and forwarding to the Municipal Court.

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- 3. When an officer makes a felony arrest; or makes a misdemeanor arrest or an arrest based on a Municipal Court Warrant and if the arrestee does not have the means to post bond or will not be immediately released on their own recognizance, the officer will:
 - a. Transport the person to the Butler County Jail where their fingerprints and photographs will be taken, and a KADR will be completed by jail staff (1.2.5b, 1.2.5c);
 - b. Complete an NTA and serve the arrestee with the notice in misdemeanor cases;
 - c. Complete an arrest report (1.2.5a); and
 - d. Submit the NTA by downloading the electronic ticket or if the electronic ticket is not available, submit a written NTA and KADR to the Communications Officer for processing and forwarding to the Municipal Court.

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- 4. Officers should seek approval from a supervisor before making an arrest of a person who the officer suspects will require hospitalization while in custody. If a person, following arrest, requires hospitalization, the department cannot release the person for the sole reason of avoiding medical expenses.

C. Service of Arrest Warrants (74.3.1)

- 1. When an officer contacts a subject for whom the officer believes or subsequently learns a local warrant has been issued, the officer will confirm the warrant through Communications. The Communications Officer will verify the existence of the warrant before confirming the warrant for the officer. If the warrant is confirmed, the officer will follow the arrest procedures outlined in this General Order.
- 2. When an officer contacts a subject for whom the officer believes or subsequently learns a warrant from another jurisdiction has been issued, the officer will confirm the warrant through Communications. The Communications Officer will confirm the existence of the warrant with the originating agency and determine if the jurisdiction will extradite the wanted person (74.1.3b, 74.1.3d).

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3. Warrants from other jurisdictions will not be served if the issuing jurisdiction does not agree to extradite the wanted person.
4. When an outside jurisdiction within the State of Kansas wishes to extradite a wanted person arrested by this department, the Communications Officer in concert with the arresting officer or the arresting officer's supervisor will coordinate with the issuing jurisdiction those extradition arrangements.
5. Reports relating to arrest warrants being served from another state will be immediately forwarded to the Butler County Attorney's Office for extradition proceedings and the arrestee will be booked into the Butler County Jail.
6. When the department is notified that an outside agency has arrested a person on an Andover Municipal Court Warrant the Communications Officer will confirm the warrant and assign an officer to process the arrest.
 - a. If the person is going to post bond at the agency where they were arrested/booked, the assigned officer will complete an arrest report and an NTA (1.2.5a). Submit the NTA by downloading the electronic ticket or if the electronic ticket is not available, submit a written NTA and KADR to the Communications Officer for processing and forwarding to the Municipal Court. The NTA does not need to be served on the arrestee.
 - b. If the person is not going to post bond at the agency where they were arrested/booked, and the agency is within 100 miles of the City of Andover, an officer will transfer the arrestee to the Butler County Jail and follow the procedures outlined above. If the agency where the arrest occurred is more than 100 miles from the City of Andover, the agency should be notified that the department will not extradite the suspect.
7. In most cases, absent exigent circumstances (serious felony warrants) attempting to serve minor arrest warrants will be limited to the hours of 0800 hrs. and 2000 hrs. However, if an officer comes into contact with people who have outstanding warrants during the normal course of their duties, the officer should verify the warrant is active and should then serve the active warrant regardless of the time of day.
8. An arrest warrant allows an officer to enter the home of a person who is the subject of the warrant if they have probable cause to believe that the wanted subject is in the home, similar to what a search warrant would permit. However, this practice should only be used in the most extreme cases, absent some type of fresh pursuit, and should only be conducted with the prior approval of the Duty Chief.

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D. Alternatives to Arrest and Use of Discretion (1.2.6, 1.2.7)

1. Officers may use their discretion to employ alternatives to arrest when an arrest would otherwise be legally permissible including such alternatives as issuing an NTA, referrals for prosecution, informal resolutions and warnings. However,



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unless otherwise indicated, officers will make arrests in the following circumstances:

- a. Cases involving a crime of domestic violence and the officer has probable cause to believe the person being arrested committed the crime;
 - b. When there is an arrest warrant commanding the officer to make an arrest;
 - c. When the officer has probable cause to believe the person being charged will not appear in court;
 - d. When the officer reasonably believes the person will cause injury to themselves or others, or property damage if not arrested; or
 - e. Cases involving the crime of driving under the influence.
2. Warnings may be given in instances of a first time violation of regulatory ordinances wherein the public safety is not at hazard.
 3. The department will issue guidance with respect to issuance of warnings in lieu of NTAs for new city ordinances as deemed prudent and fair.
 4. Other than in the incidents previously mentioned, officers may issue an NTA to a person detained for the commission of a misdemeanor with the following stipulations:
 - a. The NTA will contain the name and address of the person being charged, the crime charged, the location where the crime is alleged to have occurred, the date and time when the alleged crime occurred, the officer's signature and the time and place when and where such person will appear in court;
 - b. The court date and time specified in the NTA must be at least five days after such notice is given, unless the person demands an earlier hearing if available.
 - c. The place specified in the NTA for appearance must be before a court within the city in which the crime is alleged to have been committed.
 - d. The detained person must give a written promise to appear in court by signing the NTA as prepared by the officer.
 5. Alternatives to arrest, such as mediation, or referral to a Police Chaplain or appropriate social service agency, may be considered whenever the employment of such an alternative would facilitate a departmental objective or community need and would not conflict with the law.
 6. An officer having custody of a person arrested without a warrant is authorized to release the person when the officer is satisfied that there is no longer probable cause for an arrest.

E. Traffic Arrests and Notices to Appear

1. Depending on the circumstances, traffic law violations may be handled by a physical arrest, a written notice to appear or a verbal or written warning. Enforcement action is expected when traffic violations occur in the officer's presence. The degree and severity of the traffic law violation will be considered when taking enforcement action.

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2. A physical arrest of a traffic violator is warranted in serious traffic violations such as vehicular homicide, driving under the influence, and fleeing and attempting to elude (61.1.2a).
3. Persons driving while suspended or revoked may be arrested if the officer believes the person will fail to appear in court as directed.
4. An NTA may be issued to a traffic violator when the officer observes the violation, or during the course of investigating a motor vehicle accident the officer develops probable cause to believe, based upon the evidence, that the driver committed a traffic offense (61.1.2b).
 - a. Traffic violations constituting a misdemeanor require the driver's signature indicating their promise to appear in court as directed. The driver may be arrested if they refuse to sign the NTA for misdemeanor traffic offenses.
 - b. Traffic infractions do not require the driver's signature and drivers who refuse to sign an NTA for a traffic infraction will not be arrested.
5. A warning, either written or verbal, may be issued in lieu of a formal notice to appear. Officers should consider the violator's level of interference with other traffic, driving history, other mitigating and/or aggravating factors, road conditions and the officer's ability to educate the violator without seeking punitive action (61.1.2c).
6. Officers may at times effect felony arrests when the arrestee has also committed traffic violations. In these instances, officers will not issue the arrestee NTAs for the traffic infractions. Instead, all charges should be referred to the District Court.
7. There are several categories of traffic law violators that require a departure from the normal arrest/citation/warning procedures. Those categories include:
 - a. Non-Residents of Kansas – Non-residents of Kansas who commit traffic law violations are handled in the same manner as residents of the State of Kansas (61.1.3a).
 - b. Juveniles – All juveniles, 14 years of age and older involved in traffic offenses are processed as adults, except for vehicular homicide in which they would be processed as juveniles (61.1.3b).
 - c. Legislators – In accordance with Article 2, Section 22 of the Constitution of the State of Kansas, State Senators and Representatives are immune from arrest except for treason, felony breach of the peace (i.e. assault, DUI, etc.) fifteen days before and during a legislative session. Officers should not issue traffic tickets or take physical custody of any person who identifies themselves as a member of the Kansas Legislature unless a Watch Commander or higher authority has first approved the citation or arrest. Officer can verify the identification of the person through the Kansas Highway Patrol (61.1.3c).
 - d. Foreign Diplomats/Consular Officers – In accordance with 1978 Diplomatic Relations Act (22 USC 254), foreign diplomats and consular officers are

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- d. Foreign Diplomats/Consular Officers – In accordance with 1978 Diplomatic Relations Act (22 USC 254), foreign diplomats and consular officers are granted certain privileges and immunities by the United States Government. However, according to the Department of State, stopping a diplomat or consular officer and issuing a traffic citation does not constitute arrest or detention and is permissible. An officer contacting an individual claiming diplomatic immunity in any situation will contact the Watch Commander or higher authority for assistance.
- e. United States Military Personnel – U.S. military personnel, reserve or guard are in some cases exempt from civil process. Officers should take appropriate enforcement action (citation or arrest) as with any other case, regardless of questioned active military duty standing. Clearly note in all reports related to the incident the claim of military exemption (61.1.3e).

F. Information to be Provided to Traffic Violators

- 1. Officers will ensure traffic violators receive accurate and complete information concerning the handling of NTAs and will provide the following information:
 - a. Date, time and location of court (61.1.4a);
 - b. Whether or not their appearance in court is optional or mandatory (61.1.4b);
 - c. Notice of whether the violator is allowed to enter a plea and/or pay the fine by mail or in person at the Municipal Court, and the amount of the fine and court costs, if any (61.1.4c); and
 - d. The officer’s name and the offense being charged (61.1.4d).

G. Uniform Enforcement Policy

- 1. Uniform enforcement supports the ultimate aim of traffic law enforcement, which is to achieve voluntary compliance with traffic laws and regulations. However, uniform enforcement cannot and should not supplant officer judgment, for it is impossible to foresee every conceivable situations involving traffic violations.
- 2. Officers of the department will take at least the following minimum enforcement actions listed for the following offenses absent mitigating circumstances:
 - a. Operating a vehicle under the influence of alcohol and/or drugs – Arrest (61.1.5a);
 - b. Driving while suspended or revoked – NTA (61.1.5b);
 - c. Speed violations – Written Warning (61.1.5c);
 - d. Other hazardous violations – NTA (61.1.5d);
 - e. Off-road violations – Written Warning (61.1.5e);
 - f. Equipment violations – Written Warning (61.1.5f);

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- g. Public carrier/commercial vehicle violations – Verbal Warning (61.1.5g);
- h. Other non-hazardous violations – Verbal Warning (61.1.5h);
- i. Multiple violations – Written Warning (61.1.5i);
- j. Newly enacted laws and/or regulations – As Directed (61.1.5j);
- k. Violations resulting in state reportable traffic collisions – NTA (61.1.5k);
- l. Pedestrian and bicycle violations – Verbal Warning (61.1.5l).

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