



# Florida Highway Patrol Policy Manual

<b>SUBJECT</b> ARRESTS	<b>POLICY NUMBER</b> 11.01	<b>ISSUE DATE</b> 02/01/1996
	<b>TOTAL PAGES</b> 4	<b>REVISION DATE</b> 12/14/2021

## **11.01.01 PURPOSE**

To provide the proper procedures for members of the Florida Highway Patrol (FHP) to use when affecting an arrest.

## **11.01.02 AUTHORITY**

Members of the FHP are granted authority to make arrests and deliver those arrested to the sheriff of the county by provisions set forth in Section 321.05, and Chapters 901 and 943, Florida Statutes.

## **11.01.03 POLICY**

It is the policy of the FHP to comply with the provisions of law concerning the duties, functions, and powers of members of the FHP and to outline arrest procedures.

## **11.01.04 OBJECTIVES**

To ensure that all members of the FHP are familiar with the processes of affecting an arrest.

## **11.01.05 PROCEDURES**

Members of the FHP are charged with the responsibility to preserve the peace, protect the safety of citizens and their property, and to enforce the traffic and criminal laws of the State of Florida. At times, these responsibilities are accomplished by the active enforcement efforts of members through the arrest and incarceration of individuals violating these laws.

- A. Members may arrest a person without a warrant when:
1. The person committed a criminal offense in the presence of the member. If the member is arresting a person for the commission of a misdemeanor, county or local ordinance (as authorized in the ordinance), the arrest must be made immediately or in fresh pursuit.
  2. A felony has been committed or is being committed, and the member reasonably believes that the person to be arrested has committed or is committing the offense.
  3. A violation of Chapter 316, Florida Statutes, has been committed in the presence of the member and the arrest is made immediately or in fresh pursuit.
  4. There is probable cause to believe that the driver of any vehicle involved in a crash has committed a violation of Chapter 320 or Chapter 322, Florida Statutes, in connection with a crash.
  5. There is probable cause to believe that a person has knowingly committed an act in violation of an injunction for protection entered pursuant to Section 741.30 or Section 784.046, Florida Statutes.
  6. There is probable cause to believe that the person has committed an act of domestic violence or child abuse.
  7. There is probable cause to believe that the person knowingly committed an act of repeated violence in violation of an injunction for protection from repeat violence.
  8. There is probable cause to believe that a person has committed any battery upon another person, as defined in Section 784.03, Florida Statutes, or an act of criminal mischief or graffiti-related offense as described in Section 806.13, Florida Statutes.
  9. When there is probable cause to believe a person committed other offenses listed in Section 901.15, Florida Statutes.
- B. Members shall arrest a person with a warrant as prescribed by Sections 321.05 and 901.15(4), Florida Statutes, and FHP Policy 17.06.06(A)(5)(b).

The method of arresting with a warrant shall be done as prescribed in Section 901.16, Florida Statutes, which states:

“A peace officer making an arrest by a warrant shall inform the person to be arrested of the cause of arrest and that a warrant has been issued, except when the person flees or forcibly resists before the officer has an opportunity to inform the person, or when giving the information will imperil the arrest. The officer need not have the warrant in his or her possession at the time of arrest but on request of the person arrested shall show it to the person as soon as practicable.”

- C. Members traveling to a physical residence to serve an arrest warrant on a known dangerous felon shall first deconflict the event pursuant to FHP Policy 22.17, Deconfliction. Troop/bureau commanders may waive the deconfliction requirement on an individual case by case basis.
- D. When members arrest a violator, they shall use no more control than is necessary to affect the arrest as outlined in FHP Policy 10.01 and shall adhere to all restraining/transportation procedures outlined in FHP Policy 11.05.
- E. Members are required to advise violators of their constitutional rights prior to any custodial questioning or at the beginning of a criminal investigation after a crash investigation. It is strongly suggested to use the FHP Miranda Warning card (HSMV 61300) or the Miranda Warning – English form (HSMV 61297) or Miranda Warning – Spanish form (HSMV 61298) supplied by the Department for later court testimony. In the event the FHP Miranda Warning card is not used, the Miranda Warning – English form or Miranda Warning – Spanish form with the exact wording shall be used.

Members shall not question or interrogate any violator:

1. If the violator requests an attorney, until that attorney is present.
  2. If the violator chooses to remain silent.
  3. If during questioning or interrogation the violator wishes the questioning or interrogation to cease.
  4. Longer than for reasonable periods of time. Time shall be allowed for personal necessities and rest periods as are reasonably necessary.
- F. All non-traffic criminal arrest offenses shall be reported on the Charging Document and Incident Report in mobile forms.

- G. A Uniform Traffic Citation (UTC), probable cause statement, and other forms of the local state attorney, sheriff, correction facility, etc., shall accompany the arrested individual to the place of incarceration.
- H. A copy of all arrest documents shall be kept by the member making the arrest for later court testimony or until the final disposition of the case.
- I. A "wanted" status check through NCIC/FCIC and other local networks shall be conducted on all subjects that have been arrested.
- J. Members are required to be familiar with the arrest procedures of the local agencies of the county in which they work.
- K. The role of the FHP in criminal justice and social service diversion programs is to encourage its members to participate in such programs that may be available in the member's area of assignment.
  - 1. Criminal justice and social service diversion programs are those programs that provide alternatives to arrest and prosecution or lessen the severity of punishment. Such programs may include: Teen Court, Drug Court, Baker Act (for any Baker Act, refer to FHP Policy 22.11), Marchman Act, Pre-Trial Intervention, and Civil Citation.
  - 2. Each case must be assessed on facts specific to the case and procedures of the agency that oversees the program in determining whether the violator is permitted entry into the program.