

FLORIDA HIGHWAY PATROL POLICY MANUAL

	SUBJECT ARRESTS	POLICY NUMBER 11.01
		ISSUE DATE 02/01/96
		REVISION DATE 05/07/20
		TOTAL PAGES 3

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 a specific person has committed or is committing the offense.

3. A violation of Chapters 316, Florida Statutes, has been committed in the presence of the member. This arrest must be made immediately or in fresh pursuit, or when a member, based on an investigation, has probable cause to believe that a violation has occurred.
 4. 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, which creates a threat of imminent danger to the petitioner or household members, over the objection of the petitioner, if necessary.
 5. There is probable cause to believe that the person has committed an act of domestic violence or child abuse, and the member reasonably believes that there is danger of additional violence or abuse, unless the alleged person is arrested without delay.
 6. 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.
 7. Other violations in Section 901.15, Florida Statutes occur.
- 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. When members arrest a violator, he/she 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.
- D. 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.
- E. All non-traffic criminal arrest offenses shall be reported on the Arrest Report (HSMV 60005) and Offense Report (HSMV 60009).
- F. 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.
- G. 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.
- H. A "wanted" status check through NCIC/FCIC and other local networks shall be conducted on all subjects that have been arrested.
- I. Members are required to be familiar with the arrest procedures of the local agencies of the county in which they work.
- J. 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, Dealing with Mentally Ill), 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.