



Florida Fish and Wildlife Conservation Commission  
Division of Law Enforcement

## WARNINGS, ARRESTS, TRAFFIC ENFORCEMENT, AND INTERVIEWS

| GENERAL ORDER | EFFECTIVE DATE | RESCINDS/AMENDS  | APPLICABILITY |
|---------------|----------------|------------------|---------------|
| 02            | June 08, 2020  | October 25, 2017 | All Members   |

### References

S. 379.3312, 901.15, 812.015, 856.031, 943.0439, and 943.1727 F.S.; 11D-8, F.A.C.; IMPP 5.3.7; GO 29 CFA 2.02, 2.04M, 2.06M, 14.07M, 15.18M, 16.01M, 18.01, 18.02M, 18.03M, 18.07, 18.08M, 25.12M, 25.16

### 1 POLICY

- A** It is the policy of the Division that its sworn members be impartial, use discretion, common sense, and apply the community-oriented policing philosophy in determining whether a violation merits a warning or an arrest.
- B** It is the policy of the Division to generate compliance with the law by taking appropriate law enforcement action, including warnings and arrests.
- C** It is the policy of the Division to adhere to the requirements of applicable United States and Florida laws, rules and regulations.
- D** It is the policy of the Division to provide guidance to Division members on the conduct and coordination of criminal, non-criminal and regulatory investigations.

### 2 RESPONSIBILITIES

#### A Division

- (1) The Division is responsible for providing guidance to its sworn members in the form of this General Order when making arrests, issuing warnings, conducting interviews and performing traffic enforcement.

#### B Members

- (1) Sworn members of the Division of Law Enforcement are law enforcement officers of the State of Florida, vested with full power to investigate and arrest for any violation of the laws of this state and the rules and regulations of the Commission.
- (2) When encountering individuals who are deaf, hearing impaired, or non-English speaking, members shall contact the appropriate FWC Law Enforcement Regional Communications Center for assistance with obtaining the services of a qualified interpreter, unless a qualified interpreter is readily available.

- (3) Sworn members are responsible for exercising prudent judgment in evaluating the circumstances surrounding a suspected violation. The specific merits of each potential arrest situation should be considered so that the most appropriate form of action may be taken.
- (4) Sworn members are responsible for completing the appropriate citation for all arrests, including arrests with immediate release and the issuance of a Notice to Appear (NTA) (FWC/DLE-025).
- (5) Sworn members are responsible for submitting the original citation(s), including NTAs, to the court having jurisdiction over the alleged offense within 5 days after issuance to the violator.

### **C Environmental Crimes Investigative Responsibilities**

- (1) If a sworn member observes what may appear to be an environmental crimes violation located on private property, the sworn member will relay the information via their chain of command to the appropriate environmental crimes lieutenant.
- (2) The environmental crimes lieutenant will work jointly with the Florida Department of Environmental Protection's (DEP) regulatory entities to identify the appropriate process to rectify and to investigate the violation, if warranted.
- (3) Division sworn members will NOT use authority under Chapter 379, Florida Statutes to enter property to work or investigate environmental crimes. The appropriate investigative techniques shall be utilized, and the appropriate resources (warrants) must be obtained prior to entering the property.

## **3 PROCEDURES**

### **A Warnings**

- (1) An arrest may not be appropriate in every circumstance. A warning might better accomplish the intended purpose. While analyzing a violation, the sworn member shall consider the following criteria:
  - (a) The intent of the law as opposed to the letter of the law.
  - (b) The intent of the violator.
  - (c) Any mitigating circumstances surrounding the violation.
- (2) Warnings may be written only when the elements for a crime are met.

### **B Arrests**

- (1) When a violation of law has occurred and, in the sworn member's judgment, an arrest is warranted, the sworn member shall take all steps reasonable, necessary, and consistent to affect an arrest.
- (2) **When not to Arrest** – Any decision not to arrest must be reached only after the sworn member has carefully weighed the pertinent circumstances, including the following:
  - (a) When the actions of attempting the arrest would cause a greater risk of harm than allowing the offender to remain free.
  - (b) When attempting the arrest for a minor violation could create a situation that may cause unreasonable property damage.
  - (c) The intent of the violator.
- (3) Sworn members of the Division should not make arrests in personal quarrels or in those of their families or in disputes arising between their neighbors, except under such circumstances as would justify them using self-defense. Such circumstances or cases shall be immediately reported to another law enforcement agency to investigate and take any required law enforcement action.

### **C Misdemeanor Arrests**

- (1) A sworn member may arrest for a misdemeanor under the following situations:
  - (a) An arrest for the commission of a misdemeanor shall be made immediately or in fresh pursuit, when the offense is committed in the presence of a sworn member.
  - (b) When information is relayed to a sworn member from another law enforcement officer that the suspect to be arrested has violated Florida Statutes as per section 379.3312, Florida Statutes, then the arresting sworn member shall list the relaying officer in the witness and probable cause section of the citation (FWC/DLE-025).
  - (c) When investigating a boating accident at or about the scene, a sworn member may arrest the operator of any vessel involved, if the investigation reveals probable cause to believe the operator committed any offense in connection with the accident. The arrest must be timely to the accident.

**D Felony Arrests** - A sworn member has the authority to make an arrest for a felony when a warrant has been issued, the offense is committed in his or her presence, a felony has been committed and the sworn member reasonably believes that the person committed such felony, or the sworn member reasonably believes that the person to be arrested has committed or is committing such felony. Persons arrested on felony charges must be booked into the county jail in the county where the actual arrest took place.

### **E Custodial Arrest or Notice to Appear**

- (1) The suspect shall be turned over to the county jail having jurisdiction when it is determined that the person arrested must be taken into immediate custody.
- (2) Before the suspect is interviewed in a custodial interrogation, the sworn member shall read aloud the Miranda warning.
- (3) A Notice to Appear (FWC/DLE-025) should be issued when the offense is not a felony, and good reason exists to believe the offender will appear on their court date.
- (4) When an arrest is made by issuing a Notice to Appear, the sworn member shall inform the violator of the nature of the offense(s), its consequences, and what the violator must do to comply with the citation. When dealing with infractions, the sworn member shall inform the subject of all necessary information for sending in the fine or appearing before a hearing officer.

### **F Arrest without Warrant**

- (1) The Florida Statutes outlined below detail when an arrest by a sworn member without a warrant is lawful.
  - (a) **Section 379.3312, Florida Statutes** – Any certified law enforcement officer of the Commission, upon receiving information, relayed to her or him from any law enforcement officer stationed on the ground, on the water, or in the air, that a driver, operator, or occupant of any vehicle, boat, or airboat has violated any section of chapter 327, chapter 328, chapter 379, or s. 597.010 or s. 597.020, may arrest the driver, operator, or occupant for violation of said laws when reasonable and proper identification of the vehicle, boat, or airboat and reasonable and probable grounds to believe that the driver, operator, or occupant has committed or is committing any such offense have been communicated to the arresting officer by the other officer stationed on the ground, on the water, or in the air.
  - (b) **Section 901.15, Florida Statutes** – A sworn member may arrest a person without a warrant in any of the following situations:
    1. The person has committed a felony or misdemeanor or violated a municipal or county ordinance in the presence of the officer. An arrest for the commission of a misdemeanor or the violation of a municipal or county ordinance shall be made immediately or in fresh pursuit.

2. A felony has been committed and he or she reasonably believes that the person committed it.
3. He or she reasonably believes that a felony has been or is being committed and that the person to be arrested has committed or is committing it.
4. A warrant for the arrest has been issued and is held by another peace officer for execution.
5. A violation of chapter 316 (Florida Uniform Traffic Control Law) has been committed in the presence of the officer. Such an arrest may be made immediately or in fresh pursuit. Any law enforcement officer, upon receiving information relayed to him or her from a fellow officer stationed on the ground or in the air that a driver of a vehicle has violated chapter 316, may arrest the driver for violation of those laws when reasonable and proper identification of the vehicle and the violation has been communicated to the arresting officer.
6. There is probable cause to believe that the person has committed a criminal act according to s. 790.233 or according to s. 741.31 or s. 784.047 which violates an injunction for protection entered pursuant to s. 741.30 or s. 784.046, or a foreign protection order accorded full faith and credit pursuant to s. 741.315, over the objection of the petitioner, if necessary.
7. There is probable cause to believe that the person has committed an act of domestic violence, as defined in s. 741.28. The decision to arrest shall not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to strongly discourage arrest and charges of both parties for domestic violence on each other and to encourage training of law enforcement and prosecutors in this area. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection, under s. 741.31(4) or s. 784.047, or pursuant to a foreign order of protection accorded full faith and credit pursuant to s. 741.315, is immune from civil liability that otherwise might result by reason of his or her action.
8. There is probable cause to believe that the person has committed child abuse, as defined in s. 827.03, or has violated s. 787.025, relating to luring or enticing a child for unlawful purposes. The decision to arrest does not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to protect abused children by strongly encouraging the arrest and prosecution of persons who commit child abuse. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection is immune from civil liability that otherwise might result by reason of his or her action.
9. There is probable cause to believe that the person has committed:
  - a. Any battery upon another person, as defined in s. 784.03.
  - b. An act of criminal mischief or a graffiti-related offense as described in s. 806.13.
  - c. A violation of a safety zone, security zone, regulated navigation area, or naval vessel protection zone as described in s. 327.461.
10. The officer has determined that he or she has probable cause to believe that a misdemeanor has been committed, based upon a signed affidavit provided to the officer by a law enforcement officer of the United States Government, recognized as such by United States statute, or a United States military law enforcement officer, recognized as such by the Uniform Code of Military Justice or the United States Department of Defense Regulations, when the misdemeanor was committed in the presence of the United States law enforcement officer or the United States military law enforcement officer on federal military property over which the state has maintained exclusive jurisdiction for such a misdemeanor.

11. He or she is employed by the State of Florida as a law enforcement officer as defined in s. 943.10(1) or part-time law enforcement officer as defined in s. 943.10(6), and:
  - a. He or she reasonably believes that a felony involving violence has been or is being committed and that the person to be arrested has committed or is committing the felony;
  - b. While engaged in the exercise of his or her state law enforcement duties, the officer reasonably believes that a felony has been or is being committed; or
  - c. A felony warrant for the arrest has been issued and is being held for execution by another peace officer.

Notwithstanding any other provision of law, the authority of an officer pursuant to this subsection is statewide. This subsection does not limit the arrest authority conferred on such officer by any other provision of law.

12. There is probable cause to believe that the person has committed an act that violates a condition of pretrial release provided in s. 903.047 when the original arrest was for an act of domestic violence as defined in s. 741.28.
  13. There is probable cause to believe that the person has committed trespass in a secure area of an airport when signs are posted in conspicuous areas of the airport which notify that unauthorized entry into such areas constitutes a trespass and specify the methods for gaining authorized access to such areas. An arrest under this subsection may be made on or off airport premises. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection is immune from civil liability that otherwise might result by reason of the law enforcement officer's action.
  14. There is probable cause to believe that the person has committed assault upon a law enforcement officer, a firefighter, an emergency medical care provider, public transit employees or agents, or other specified officers as set forth in s. 784.07 or has committed assault or battery upon any employee of a receiving facility as defined in s. 394.455 who is engaged in the lawful performance of his or her duties.
  15. There is probable cause to believe that the person has committed a criminal act of sexual cyber harassment as described in s. 784.049.
- (c) **Section 812.015, Florida Statutes** – A sworn member may arrest, either on or off the premises and without warrant, any person the sworn member has probable cause to believe has committed theft of merchandise in a retail or wholesale establishment or on commercial or private farm lands of a farmer.
- (d) **Section 856.031, Florida Statutes** – A sworn member may arrest any suspected loiterer or prowler without a warrant should delay in procuring one probably enable such suspected loiterer or prowler to escape arrest.
- (2) Sworn members making a legal arrest pursuant to section 901.15, Florida Statutes, may search the defendant thoroughly at the time of arrest, as well as in the area within the defendant's control, and such evidence may be admissible in the case.

## G Arrest with Warrant

- (1) When a sworn member arrests on a warrant, there is no requirement that the crime must have been committed in the sworn member's presence or that the sworn member has any independent knowledge of the crime. The only requirement of a sworn member executing a warrant is to determine:
  - (a) Whether or not the suspect is the one for whom the warrant was issued.
  - (b) With respect to the first requirement, a sworn member is required to use reasonable diligence to ensure the person arrested is, in fact, the subject named in the warrant. Sworn

members, when in doubt, must utilize simple and direct means of checking on identification when such means exists. Failure to do so may result in liability falling upon the sworn member(s) personally and/or the Commission. Photographs, fingerprint classification information, and other intelligence material are often essential to ensure a proper arrest.

- (2) In order to determine whether or not a warrant is valid on its face, it should:
  - (a) Have been issued by a court of competent jurisdiction;
  - (b) Charge the commission of an offense;
  - (c) Charge an identifiable person, and;
  - (d) Be signed by a judge.
- (3) If a warrant is valid on its face and is executed against the proper person in a reasonable manner, the sworn members are protected from any civil liability for false arrest.
- (4) Sworn members executing an arrest warrant must first knock and announce their presence, purpose, and authority.
- (5) If a sworn member fails to gain admittance after they have knocked and announced their presence, purpose, and authority, the sworn member may use all necessary and reasonable force to enter the premises to affect such an arrest with a warrant.
- (6) Although Florida does not have a “no-knock” warrant, the Florida Supreme Court has given law enforcement officers serving a warrant four “no-knock” exceptions. Sworn members need not knock and announce their presence if any of the four exceptions exist:
  - (a) The person within already knows of the sworn member’s presence, purpose, and authority; or
  - (b) The sworn member justifiably believes that persons within are in danger of immediate bodily harm; or
  - (c) The sworn member’s life would be greatly endangered if he or she were to knock and announce; or
  - (d) Those within are made aware of the presence of someone outside and are then engaged in activities which justify the sworn member’s belief that an escape or destruction of evidence is now being attempted.
- (7) When making an arrest of a subject wanted on an open warrant, it is important that an FWC citation (FWC/DLE-025) be completed for documentation. Authority for this type of arrest is covered by section 901.15 (4), Florida Statutes. In the Charging section of the citation, list “Arrest by Warrant”, section 901.15 (4), Florida Statutes, warrant number and the original charge the warrant was issued for. In many counties the Sheriff’s Office requires an affidavit to be completed, for their records, when an arrest is made by warrant. These forms normally include a space to list the arresting agency’s ORI (Originating Agency Identifier) number. If the FWC citation is used as the charging document, the ORI number shall be listed at the top of the citation.

## **H Procedures to Obtain an Arrest Warrant**

- (1) Procedures for obtaining an arrest warrant are different throughout the State. Sworn members should contact the State Attorney’s Office in their enforcement area and become familiar with the procedure in their area. The following are general guidelines to consider and may differ from those used by various State Attorneys’ Offices:
  - (a) Complete the Probable Cause Affidavit (FWC/DLE-390) to be signed by sworn members in felony cases. Probable cause affidavits may be signed by sworn members or by the complainant in misdemeanor cases.

- (b) All pertinent information concerning the suspect should be recorded on the top of the complaint. This information would include a complete physical description, date of birth, and the last known address.
  - (c) Have both probable cause sheet(s) and complaint form notarized.
  - (d) Contact the State Attorney's Office for review of probable cause in felony cases or misdemeanors signed by sworn members.
  - (e) Obtain Judge's signature for the arrest warrant.
  - (f) Contact the Clerk of County Court Office and obtain a warrant number for misdemeanors. Contact the Clerk of Circuit Court Office and obtain a warrant number for felonies.
  - (g) Contact the local Sheriff's Office, warrant section and record the warrant into their files. If any FCIC/NCIC entry is required, the proper suspect information will be given to the local county Sheriff's Office warrant section.
  - (h) Record the original warrant with the clerical supervisor in charge of warrants.
- (2) Serving the Warrant
- (a) Known suspects should be arrested as soon as possible.
  - (b) The sworn member shall notify his or her supervisor prior to serving the warrant.
  - (c) If the sworn member does not serve the warrant within 72 hours, the true copy will be delivered to the clerical supervisor at the local Sheriff's Office.
  - (d) When the warrant is delivered to the clerical supervisor at the Sheriff's Office, the sworn member will be responsible for completing the warrant information sheet which will be attached to the warrant.

## I Traffic Enforcement Guidelines

- (1) **Traffic Citations** – Enforcement of traffic violations is not a primary area of enforcement for the sworn members of the Division of Law Enforcement, with the exception of Key Deer and Panther zone enforcement, and the enforcement of applicable traffic violations occurring within the boundaries of state parks, state forests, and/or wildlife management areas, or in order to protect visitors of these state lands. It is recognized that certain traffic violations such as reckless driving, careless driving, and driving under the influence may occur in the presence of a sworn member and require immediate action. Special Details, as approved by a supervisor, may target specific traffic violations associated with resource enforcement. The immediacy and level of threat to the public is a consideration in determining the appropriate law enforcement response. Speed violations, equipment violations, public carrier/commercial violations, non-moving and moving citations may be issued when there are multiple violations in conjunction with a careless driving, reckless driving or DUI citation. Enforcement of newly enacted laws regulating traffic should initially be treated with leniency and with emphasis given to educating the motoring public.
- (a) For purposes of this General Order, wildlife management area includes all lands managed by the FWC (e.g., Wildlife, Management Areas (WMAs), Wildlife Environmental Areas (WEAs) and the land surrounding Fish Management Areas (FMAs). State parks include all lands under management by the Department of Environmental Protection's (DEP) Division of Recreation and Parks (e.g., State Parks, Greenways and Trails, and the upland portions of Coastal and Aquatic Managed Areas (CAMAs).
- (2) Consideration as to whether or not to enforce a traffic violation should not be based on status, residency, ethnicity, gender, etc., except as provided by law. Non-residents and military personnel committing violations of Florida traffic laws shall be afforded the same considerations as residents.

- (3) In general, sworn members in civilian clothes shall not take enforcement action on traffic infractions.
- (4) The Uniform Traffic Citation (UTC) or Driving under the Influence (DUI) citation will be completed on all traffic related charges if a citation is warranted. In addition, an Incident Summary Report Narrative will be completed and submitted for each criminal UTC or DUI citation.
- (5) The DUI citation is to be issued only for a DUI arrest when the driver's blood alcohol level is 0.08 or higher or when the driver refuses to take a blood, breath or urine test. The UTC is to be issued for a DUI arrest when the driver's blood alcohol level is less than 0.08.
- (6) When a traffic violator is being issued a citation and has failed to produce a valid driver's license, a right thumb print of the violator shall be placed on the back of the original citation.
- (7) A separate citation must be completed for each violation or each count of a violation.
- (8) Requirements and options for satisfying or answering to the charges shall be given to the violator prior to release. This information is unique to each county and should include, but not be limited to; whether a court appearance is mandatory or optional along with the court appearance schedule and whether the violator is allowed to enter a plea and/or pay a fine by mail or at the traffic violations bureau. The office of the clerk of the circuit courts shall be contacted for specific procedural requirements.
- (9) When a member issues a UTC for unlawful speed, the sworn member must document the type of device and the manufacturer's serial number of the device (for laser or radar) in the comments section of the citation form. For example:
  - (a) Pace Clock FWC 152
  - (b) Radar 90665
  - (c) Laser 12912
- (10) **Traffic Crash Investigations and Accident Reporting** – In accordance with General Order 29, *Accident Investigations and Death Notifications*, vehicle crash investigations shall be referred to the appropriate law enforcement agency having jurisdiction. However, if a vehicle crash occurred in a state park, state forest, or wildlife management area and the responding member had the appropriate training, the following procedures apply:
  - (a) Sworn members shall refer any traffic crash involving serious bodily injury or death of any person to the Florida Highway Patrol (FHP), who shall conduct the investigation in accordance with FHP General Orders.
  - (b) Sworn members may investigate a traffic crash and complete the "Long Form" Report via the MCT if the traffic crash does not involve serious bodily injury or death but involves a criminal traffic violation such as DUI, etc.
  - (c) Sworn members may investigate a traffic crash and complete the "Short Form" Report via the MCT if the traffic crash does not involve any bodily injury or death and meets the following criteria:
    1. Damage to any vehicle or other property.
    2. Serious, potentially violent arguments, disturbances or confrontations involving principals or other persons present at the scene. (If such altercations involve the commission of a criminal offense, an Incident Summary Report and any other applicable forms shall be completed by the member as well).
    3. Removal of a vehicle from traffic by towing.
    4. Crashes resulting in major traffic congestion on roadways within a state park.

- (d) Any traffic crash involving a Division vehicle shall be referred to the local law enforcement agency having jurisdiction or the Florida Highway Patrol, if appropriate, and be handled in accordance with IMPP 5.3.8, *Accidents and Equipment Damage*.

#### **J Driving Under the Influence of Alcohol or Drugs**

- (1) Whenever practicable, a person determined to be driving under the influence of alcohol or drugs will be taken into custody and be delivered to the county jail for booking. Under no circumstances will it be permissible to issue a notice to appear for a DUI charge.
- (2) Arrest and processing of DUI suspects will be in accordance with the FDLE Implied Consent Program (Rule 11D-8, Florida Administrative Code) and procedures established by the Department of Highway Safety and Motor Vehicles related to administrative suspensions.
- (3) A DUI suspect may request an independent blood test. If the suspect has submitted to the authorized test requested by the sworn member, the sworn member will ensure the suspect is provided with a telephone book and access to a telephone in a timely manner. If the DUI suspect has refused the test requested by the sworn member, no independent test is required. If the suspect has been turned over to the sheriff's office or the Department of Corrections, it will be the responsibility of the deputies or corrections officers to provide the suspect with the assistance necessary to obtain an independent test.
- (4) Pursuant to section 316.1932, Florida Statutes, the suspect is responsible for arranging and securing the independent test at his or her own expense. The arresting officer is not obligated to provide transportation for the DUI suspect to obtain the independent test.

#### **K Driving While License is Suspended or Revoked**

- (1) A Uniform Traffic Citation (UTC) should be issued.
- (2) Sworn members should consider the seriousness of the violation, and the number and types of previous suspensions/revocations in determining whether a custodial arrest is appropriate.
- (3) Sworn members will not allow any person whose driver license is not valid or who does not possess a driver license to operate a motor vehicle. Sworn members will assist any such person in obtaining alternate transportation from the scene or locating a properly licensed driver to assume control of the motor vehicle.
- (4) In the event a sworn member seizes a driver license for any violation involving a suspension, revocation, or cancellation, the driver license will be attached to the court copy of the uniform traffic citation and forwarded with the citation to the court.
  - (a) In those instances where the county court administrator or presiding judge does not want the driver license forwarded to the court, sworn members will forward the driver license to the nearest Driver License Office.
  - (b) Should a sworn member come into the possession of a driver license for any other reason, sworn members will submit the driver license to the nearest Driver License Office.

#### **L Vehicle Stop and Approach**

- (1) Sworn members will take all steps and precautions reasonable and necessary during traffic stops to assure their safety and well-being.
- (2) Prior to stopping the vehicle, dispatch shall be notified of the intended location of the traffic stop, the license number, the number of occupants in the vehicle, vehicle type, color, and any other distinguishing characteristics of the vehicle.
- (3) Every effort should be made to avoid stops on hills, curves, intersections, private drives, business locations and bridges which have limited parking.
- (4) The sworn member should signal the violator to stop by using blue lights, hand signals, sounding the horn, and/ or the siren.

- (5) The violator should be signaled and directed to the right side of or off the roadway, onto a side street, and away from heavy traffic.
- (6) Should the violator stop abruptly in the wrong lane or in another undesirable location, the driver should be promptly directed to move to a safer location. Sworn members should use the public address system to instruct violators to move to a safer location.
- (7) The violator should not be permitted to move his vehicle once it has stopped if it is suspected the driver is under the influence of alcohol or other substance to the extent that his or her driving ability is impaired.
- (8) Once the violator has stopped, the sworn member should position the patrol vehicle for optimum safety.
- (9) The sworn member may approach from the rear of the violator's vehicle, looking into the rear seat area, and stopping at a point to the rear of the trailing edge of the left front door. This position should be maintained if there are only occupants in the front seat of the vehicle. From this position, the sworn member should communicate with the violator, keeping the driver in a slightly awkward position, and at the same time keep all occupants of the vehicle within view. (A right-hand side approach is an acceptable option in those cases where close passing traffic constitutes a danger to the sworn member.)
- (10) In cases where the violator's car has occupants in both the front and rear seats, the sworn member should approach to a point near the edge of the left rear door, being especially alert for any unusual actions on the part of the occupants and choosing a path so the door cannot be used as a weapon against the sworn member. From this position, the sworn member should communicate with the violator and keep all occupants within view.
- (11) In traffic stops made by two sworn members in a patrol vehicle, the passenger sworn member should be responsible for all radio communications. During the traffic stop, the passenger sworn member should exit from the vehicle and act as an observer and cover the other sworn member.
- (12) At night, headlights should be on low beam for the safety of oncoming traffic. The spotlight or takedown lights may be used to illuminate the interior of the violator's vehicle. These lights should be turned off as soon as appropriate to avoid interfering with oncoming traffic.
- (13) It is recognized that all traffic stops may not fit the above mentioned criteria such as off-road stops, management area stops, and other rural area traffic stops. When possible, the above procedures should be followed.
- (14) Sworn members shall not perform traffic stops by exercising police authority based solely upon an individual's race, ethnic origin, gender, age, sexual orientation or income status.

**M Sworn members while operating marked law enforcement vehicles will render the following assistance:**

- (1) Protection of persons stranded on the highway:
  - (a) Upon observation of, or dispatched to persons stranded on the highway, sworn members will ensure that individuals are as far from the highway surface as possible.
  - (b) Sworn members will assist in getting inoperable vehicles off the roadway, if safely possible.
  - (c) If needed, sworn members will assist in transporting stranded individuals to the nearest service location. Sworn members will provide dispatch their beginning and ending mileage.
  - (d) Sworn members will provide information, directions, and other assistance whenever requested to do so.
- (2) Emergency assistance to highway users:
  - (a) Sworn members will provide all feasible emergency assistance to highway users in need.

1. Sworn members will notify communications of the situation and request the necessary assistance.
  2. Sworn members will not jump start vehicles with agency vehicles.
  3. Sworn members will not use Slim Jims or any other tools to open locked doors unless doing so is necessary to prevent serious injury.
- (3) Taking action to correct hazardous highway conditions and control or removal of roadway hazardous materials:
- (a) Sworn members will ensure that debris capable of causing a traffic safety hazard is removed from roadways as soon as possible after discovery.
  - (b) The appropriate agency will be contacted for removal of debris such as fallen trees, branches, or other objects that cannot be immediately removed by the sworn member.
  - (c) Inoperative traffic lights or mechanical traffic control devices will be reported immediately. If the location and conditions necessitate immediate attention, the sworn member will remain on the scene to assist with traffic control until repairs are affected, or the local agency responds.
- (4) Missing, defaced, or damaged traffic regulatory signs shall be reported immediately.

#### **N Traffic Direction and Control by Sworn Members**

- (1) Sworn members may be utilized to control the flow of vehicular or pedestrian traffic. Traffic direction and control is performed by hand signals combined with the use of visual and auditory signaling aids. A traffic control point is a sworn member's physical presence in the street, intersection, or other location. Visual and auditory signals are used to direct and control traffic. Unless assigned to a special detail requiring that traffic control be performed, sworn members should evaluate the necessity of a traffic control point. Factors to be considered should include but are not limited to, traffic volume, congestion, adverse weather conditions, emergency conditions, pedestrian traffic, estimated duration of congestion period, staffing availability and public safety in general.
- (2) Any sworn member, who directs traffic, shall wear a Division-issued safety vest. Only sworn members will conduct traffic direction and control.
- (3) Using the following standardized gestures will enhance driver and pedestrian recognition of and response to a sworn member's directions:
  - (a) **Whistle Signals:** Whistle Signals shall be used in conjunction with hand signals and be of sufficient volume as to be audible with respect to surrounding conditions.
    1. **Stop** – one long whistle blast.
    2. **Start or Proceed** – two short whistle blasts.
    3. **Attention** – a series of short whistle blasts.
  - (b) **Hand Signals Basic Stance:** - The feet should be spread approximately shoulder width apart so that weight is evenly distributed on both feet. Hands and arms should hang naturally at the sides. The head and body are erect but not stiff. Keep feet planted in position, but do not lock the knees or tense the body.
    1. **Front Stops** – Look to the front. Raise the left arm up and out to the front, keeping the fingers joined and extended with the palm facing outward. The entire hand is clearly visible to oncoming traffic. The elbow should be bent and at eye level so that the hand is well above the headgear. When the traffic is halted, complete the signal by dropping the arm to the side. The left arm is raised because traffic from the front approaches on the left.

2. **Side Stops** – Look to the side at the approaching vehicle/driver. Thrust the arm, left or right, in respect to the side that traffic is approaching, up and out bending the elbow slightly. Keep fingers extended and joined. The palm should be flat and facing out with the entire surface clearly visible to oncoming traffic. The elbow should be bent and at eye level so that the hand is well above the headgear. Allow the vehicle operator time to react and bring the vehicle to a stop.
  3. **Proceed Straight Ahead** – Look to the side at the traffic to be signaled. Extend the arm left or right, in respect to the side that the signal is to be executed so that it is parallel to the ground. The palm is facing up and the hand is straight. The fingers are extended and joined. Without moving the upper arm, use the elbow as a fixed axis and rotate the forearm across the front of the body so that the hand stops just below the chin with the palm facing down. Complete the signal by dropping the arm smartly and returning to the basic stance.
  4. **Rear Stops** – Bend the left knee slightly and rotate on the ball of the left foot. Turn the upper half of the body to the right, turning the head and eyes to the right rear. The right foot does not move. Raise the right arm up, out to the rear with the fingers extended, and joined. The palm faces traffic to the rear. Keeping the elbow bent and at eye level. When traffic is halted, complete the signal by dropping the arm and returning to the basic stance.
  5. **Right Turns** – Look to the side at the traffic needing to turn right. Extend the arm left or right, in respect to the side of the approaching vehicle. Extend the arm straight out to the side so that it is parallel the ground. Point the first two fingers of that hand at the vehicle to turn. The palm faces forward. If the vehicle is on the right, move the arm in a sweeping motion 90 degrees to the front. Keep the arm parallel to the ground. If the vehicle is on the left, without turning the shoulders or body, sweep the left arm 8 to 10 inches to the rear. Complete by dropping the arm smartly to the side, returning to the basic stance.
  6. **Left Turns** – Look to the side at the vehicle and determine the operator's intent to turn. Look to the opposite side and halt traffic by putting up a stop signal insuring that the hand is well above the headgear. Holding the stop signal in position, look back to the vehicle wanting to turn left. Extend the arm left or right, in respect to the side that the vehicle is on that is being signaled to turn left, out to the side. Keep the arm parallel to the ground. Point the first two fingers of that hand at the vehicle to turn. If the vehicle is on the right turning left, without turning the shoulders or body, sweep the right 8 to 10 inches to the rear to indicate the turn. If the vehicle is on the left turning left, move the left arm in a sweeping motion 90 degrees to the front, keeping the arm parallel to the ground. Complete the turn signal by dropping the arm to the side. After the vehicle has cleared the intersection, look back to the side facing the stop signal and convert the stop signal to a "Proceed" signal by rotating the palm inward. Rotate the forearm across the front of the body until the hand is just below the chin, and then drop the arm smartly to the side.
  7. **Change Flow** – Look to the right, then put up a stop signal with the right arm, and hold position. Look to the left, put up a stop signal with the left arm, and hold position. Turn the body with the stop signals up 90 degrees to the right or left so that you face the traffic just stopped. Look left and then convert stop signal to a proceed signal as described above. Conduct the same to the right side.
- O Foreign Diplomats and Consular Officials** – International law requires that special privileges and immunities be granted to foreign diplomatic and consular representatives. Diplomatic immunity does not exempt diplomatic officers from conforming with national and local laws, but requires that the violation be handled through diplomatic channels. Any person possessing diplomatic immunity may be taken into protective custody. When this occurs, the United States Department of State should be notified immediately.

- (1) Diplomatic agent is a term assigned to ambassadors and other diplomatic officers who generally have the function of dealing with host country officials.
  - (a) Diplomatic agents, their family members, and members of their administrative and technical staff are immune from arrest, detention, and criminal prosecution.
- (2) Uniform Traffic Citations (UTC), Uniform Boating Citations (UBC), and citations for civil infractions may be issued to diplomatic agents.
- (3) Diplomatic agents may be taken into protective custody for DUI. However, the implied consent law does not apply and the diplomatic agent must be released from protective custody to a responsible party as soon as possible.
- (4) Consular officers differ from diplomatic agents in that they perform functions of principal interest to their sending countries, such as, attending to difficulties of their own countrymen who are present in the host country and promoting the commerce of the sending country. A consular officer may be arrested or detained for a felony violation, or pursuant to a warrant, and may be issued a UTC.
- (5) The United States Department of State should be notified as soon as possible when a person who has been granted immunity violates the law. The Department of State may seek a waiver of immunity from the sending country if the seriousness of a crime warrants this action.
- (6) The following information is needed when requesting a check for diplomatic immunity or when reporting that a person possessing diplomatic immunity has been taken into custody:
  - (a) Complete Name.
  - (b) Address.
  - (c) Date of Birth.
  - (d) Nation Represented.
  - (e) Reason for Inquiry or Report.
- (7) Such requests or reports can be made to the Bureau of Diplomatic Security, United States Department of State, Washington, DC 20520. (ORI# DCD050000) 24-hour telephone number is (202) 647-7277.
- (8) The Division Director shall be promptly notified through the chain-of-command of any incident involving a person who possesses diplomatic immunity.

**P Foreign Nationals** – Citizens of another country, excluding diplomats and consular officers, who are in the United States on a temporary basis, either legally or illegally. This includes tourists, students, and aliens. Specific guidelines are set out by the United States Department of State to deal with the detention or arrest of foreign nationals.

- (1) Foreign nationals have no diplomatic immunity status and may be arrested or detained as any United States citizen.
- (2) A sworn member who arrests or detains foreign nationals must promptly inform the subjects of their right to have their government informed of the situation.
- (3) Consular officers have the right to visit their nationals who are in custody, to converse and correspond with them, and to arrange for their legal representation. A foreign consular officer should not take such action on behalf of a foreign national if the person being held expressly opposes such actions.
- (4) Agreements between the United States Department of State and certain countries require mandatory notification of the foreign national's consulate or embassy when certain nationals are confined or detained. In these cases, the foreign national has no choice regarding notification, and law enforcement authorities must notify the consulate or embassy of the situation without delay. The subject should be advised when the affected consul has been notified.

- (5) Inquiries and reports concerning foreign nationals should be directed to the U.S. Department of State Bureau of Consular Affairs, telephone number (202) 647-4415. After hours inquiries should be directed to the U.S. Department of State Operations Center, telephone number (202) 647-1512.

#### **Q Juveniles**

- (1) Issues pertaining to Juveniles are addressed in General Order 15, *Juvenile Policy and Procedure*.

#### **R United States Senators and Members of the U.S. House of Representatives**

- (1) Article 1, Section 6, of the United States Constitution provides members of the United States Congress privilege from arrest during the session of their respective houses, and in going to and returning from the same.
- (2) During the period specified by the United States Constitution, sworn members may issue a written warning, a UTC or a notice to appear but will **not** subject a member of the United States Congress to custodial arrest, except in cases of treason, felony or breaches of the peace.

#### **S Interviews**

- (1) The following rules apply to subjects or detainees brought to an office for statements or interviews:
  - (a) A sworn member shall constantly accompany the subject.
  - (b) Non-sworn members shall not guard or be left alone with subjects.
  - (c) Two or more subjects brought in at the same time shall be kept separate during interviews.
- (2) The Division does not have any approved holding areas; therefore, subjects shall not remain at the office any longer than necessary for a short interview or to make a statement.
- (3) When interviewing individuals who are deaf, hearing impaired, or non-English speaking, members shall contact the appropriate FWC Law Enforcement Regional Communications Center for assistance with obtaining the services of a qualified interpreter.
- (4) Individuals with Autism or an Autism Spectrum Disorder
  - (a) When encountering individuals who are diagnosed with autism or an autism spectrum disorder, and at the individuals request, or his or her parent or guardian, members should contact the appropriate Law Enforcement Regional Communications Center for assistance in making a good faith effort to contact a trained professional for an individual diagnosed with autism or an autism spectrum disorder.
  - (b) Sworn members shall ensure that individuals with autism or an autism spectrum disorder are provided information regarding their rights as stated in Florida State Statute 943.0439; "The Wes Kleinert Fair Interview Act". Initial and periodic refresher training regarding Florida State Statute 943.0439 is required and will be provided to members via PowerDMS.
  - (c) Upon the request of an individual diagnosed with autism or an autism spectrum disorder or his or her parent or guardian, sworn members shall make a good faith effort to ensure that a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, or related professional is present at all interviews of the individual. This applies to an individual who is the victim, a suspect, or a defendant formally accused of a crime.
  - (d) All expenses related to the attendance of the professional at interviews shall be the responsibility of the requesting parent, guardian, or individual.
- (5) Members may refer the subject or his or her parent or guardian to the Center for Autism and Related Disabilities (CARD) at 1-800-928-8476 (1-800-9-AUTISM) for assistance if needed.

#### 4 FORMS

| FORM NUMBER | FORM TITLE               |
|-------------|--------------------------|
|             | Incident Summary Report  |
| FWC/DLE-025 | Citation                 |
| FWC/DLE-390 | Probable Cause Affidavit |