

	<b>LANE COUNTY SHERIFF'S OFFICE POLICY</b>	Number: <b>G.O. 1.08</b>
		Issue Date: March 21, 2005
		Revision Date: November 2, 2005; October 10, 2016; October 18, 2016
<b>CHAPTER:</b> Sheriff's Office Role and Authority		Related Policy: G.O. 1.09 (Alternatives to Incarceration for Adults), G.O. 1.10 (Alternatives to Incarceration – Juvenile), G.O. 1.16 (Domestic Violence Involving Law Enforcement Officer), G.O. 7.14 (APA/Child/Elder Abuse), G.O. 7.21 (Service of Municipal Warrants); G.O. 12.10 (Immigration and Customs Enforcement (ICE) Detainers); Lane County Adult Corrections Division Post Order Section 02.00.00: Booking
<b>SUBJECT: Guidelines for Arrest</b>		Related Laws: ORS 133.055 (2a) (Domestic Disturbance), ORS 133.220 (Who May Make an Arrest), ORS 133.235 (Arrest by a Peace Officer, Procedure), ORS 133.310 (Authority of a Peace Officer to Make an Arrest Without a Warrant), ORS 133.315 (Liability of Peace Officer Making an Arrest)

**POLICY:** Deputies are legally responsible for their actions and, in addition to disciplinary action by the Sheriff's Office, employees can be held civilly or criminally liable as the result of unprofessional conduct. The only way to avoid these consequences is to carefully follow Sheriff's Office policies and procedures, to act reasonably at all times, and never allow excitement, anger, or other emotions to impair judgment.

**RULE:** Deputies shall act reasonably and within the limits of their authority as defined by statute and judicial interpretation, insuring that the rights of both the individual and society are protected.

**PROCEDURE:**

I. Execution of Arrest Warrants

A. Initiated Arrest

1. When this Sheriff's Office or an authorized employee of this Sheriff's Office receives a warrant of arrest from a court of this jurisdiction or has information from other Peace Officers that they have in their possession a warrant of arrest and that the warrant is servable in this jurisdiction

according to law, that warrant of arrest shall be served at the first opportunity.

2. The person arrested shall be arraigned at the first opportunity according to law. Normally, misdemeanor warrants served at a residence will not be served after 2200 and not on Sunday, unless specified on the warrant or approved by a supervisor.
3. Refer to G.O. 7.21 for Service of Municipal Warrants.

B. Already in Custody

1. All warrants received by this Sheriff's Office shall be checked against the on-line booking record to determine if the wanted individual is incarcerated at Adult Corrections. During business hours the responsibility for such checking is placed with the Records Officer assigned to the Police Records Unit.
2. If it is determined that we hold a valid warrant for an individual currently incarcerated at Adult Corrections on another charge, a teletype message shall be sent to Jail Records. Jail Records shall place an appropriate hold on the individual for our Sheriff's Office and shall so advise the individual of the additional charges via Corrections Security personnel.
3. It is not necessary to personally serve a warrant unless the individual being charged specifically asks to see it. Upon receiving such a request, we shall arrange for a Court Transport Officer to serve it on the individual in custody or, if a Court Transport Officer is not available, we shall arrange for Field Staff and/or a Corrections Officer to make the personal service. On a routine basis, the message switch will suffice as a legal hold and as legal notice to the individual being charged.

II. Arrests Without a Warrant

Deputies can make an arrest without a warrant of arrest for any crime being committed in their presence or for any crime for which they have probable cause to make an arrest when the crime did not occur in their presence.

Probable cause for such arrest exists if facts and circumstances which are within the knowledge of the deputy at the time of arrest, and of which the deputy has reasonably trustworthy information, are sufficient to warrant a person of reasonable caution in the belief that the suspect has committed, or is committing, a crime.

A. Citizen Arrests

1. Unless required by the situation, employees should not encourage citizen arrests or private person arrests. The deputy has the right and the duty to examine the facts and to determine if the citizen's arrest was in fact a lawful arrest before accepting custody of the prisoner. This includes determining that the citizen actually witnessed the crime. However, if a prisoner is delivered to a Deputy as a result of a lawful citizen's arrest, the Deputy must take that prisoner into custody.
2. The citizen initiating a private person's arrest shall be fully advised of all responsibilities regarding the arrest and the necessity to appear before the District Attorney or representative to sign a formal complaint, between 9:00 a.m., and 12:00 p.m., on the day after the crime was committed.

Failure to do this may result in dismissal of all charges and may subject them to civil liabilities. The report should indicate that this advice was given.

B. Fugitives

1. Those persons arrested as fugitives from justice shall be arraigned in the same manner as any other arrested person and shall be subject to release on bail, as established by the court.
2. This Sheriff's Office shall hold such fugitives for the period required by the court, or as otherwise directed by a court having jurisdiction.
3. When documenting the arrest of a fugitive from justice, Deputies shall indicate how the identification was made. If the subject identified himself/herself, then the report must state how the subject identified himself/herself. The report should expressly state that the defendant verbally identified himself/herself or otherwise acknowledged their full name, date of birth, and social security number.

C. Civil Disputes

Deputies are frequently called to the scene of civil disputes where no crime has been committed. The presence of Deputies at such scenes is primarily to preserve the peace and to prevent a crime from occurring. While Deputies are expected to give referrals for assistance, they will not give legal advice. Deputies should avoid becoming unnecessarily involved in civil disputes. However, since the enactment of the Abuse Prevention Act (ORS 133.055 and 133.310) certain actions previously considered civil in nature are now mandated by this law requiring arrest and custody in certain specific situations.

Refer to G.O. 1.16 for Domestic Violence Involving a Law Enforcement Officer and G.O. 7.14 for Abuse Prevention Enforcement Procedures.

D. Military Personnel

Deputies shall not arrest military personnel for being absent without leave (AWOL) unless there is an order for such arrest from the armed forces.

E. Juveniles

Juveniles are not arrested for the commission of a crime; rather, they are taken into custody for a violation. The seriousness of the crime and the juvenile's background shall determine how the matter is to be handled.

1. Authority of the Lane County Department of Youth Services

- a. The Lane County Department of Youth Services, including the Juvenile Court, shall have final jurisdiction in the handling of a juvenile unless that juvenile has been remanded to another court as an adult.

2. Processing Juveniles Taken into Custody

- a. Juveniles may be taken into custody for a violation or crime the same as an adult; however, the processing of such detention shall differ.
- b. For the use of citations, refer to G.O. 1.10.
- c. Unless a juvenile has been remanded, they shall not be incarcerated in the Lane County Adult Corrections Facility. When necessary to incarcerate a juvenile in the Lane County Corrections Facility that juvenile shall be segregated, as well as possible, from adult prisoners.
- d. When necessary for the safety of the juvenile, the safety of the community, or the prevention of further violations, juveniles may be lodged at an appropriate facility of the Department of Youth Services if charged with a crime. Juveniles may not be taken into custody for runaway unless the Deputy has reason to believe that the immediate physical safety of the juvenile is in jeopardy
- e. When a juvenile is taken into custody for crimes, where if the youth was an adult they could be arrested without a warrant, they will be photographed and finger printed by the arresting Deputy. Upon arrest of a youth the Deputy will contact the on-duty supervisor to gain access to the juvenile mug and print area (Reference 419A.250(2) and 419C.080).

F. Illegal Aliens

1. No money, equipment or personnel may be used for the purpose of detecting or apprehending person whose only violation of law is that they are persons of foreign citizenship present in the United States in violation of federal immigration laws.

G. Arrests Made in the Courtroom

1. Physical arrests in the courtroom shall only be made in the following circumstances.
  - a. At the direction of the Judge.
  - b. In an emergency situation where life is endangered or injury appears imminent to another person.
  - c. To prevent a potential riotous situation from occurring.
2. If it is necessary to serve a warrant on a person in the courtroom, make every effort to delay such an arrest until the individual exits the courtroom, and effect the arrest in a manner that will be the least disruptive to the courts and their proceedings. It would be permissible for a Deputy to discretely ask an individual to step from the courtroom and after exiting the courtroom make an arrest.

H. Probable Cause Affidavits

1. Persons arrested and incarcerated on probable cause must be brought before a magistrate within 48 hours of the arrest.
  - a. A Probable Cause Affidavit will be filled out on all probable cause arrests made by a Deputy of the Lane County Sheriff's Office.

III. ARRESTEE'S PERSONAL PROPERTY

- A. Any personal property that will accompany the arrestee to the Lane County Jail will be inventoried per Lane County Jail policy.
- B. In situations where the personal property is not accepted by the Lane County Jail (oversized items, excess of items or items prohibited from storage within the jail, I.E knives); the property will be placed in the Inmate Property Cage in Bay 7.
- C. Personal property placed in the Inmate Property Cage in Bay 7 will be inventoried.

1. An inventory is a non-investigatory procedure. During the course of inventorying personal belongings, if you encounter evidence of a crime in plain view it may be seized and lodged as evidence per department policy.
  2. If however, you develop probable cause to believe that evidence of a crime will be found within a closed container that is not open, and not subject to opening because it is not uniquely designed or objectively likely to contain any of the below listed items (D-1 through D-8), it will be necessary to seize the closed container and seek a search warrant prior to opening the container.
    - a. If a deputy is seeking a search warrant, the property should not be left in the Inmate Property cage, but should be lodged in the evidentiary cages in Bay 7.
  3. For safety reasons, all knives need to be specifically listed and made as safe as possible.
- D. The following items are not acceptable for storage at the Inmate Property Cage in Bay 7.
1. Dangerous weapons including explosive devices, fireworks, and firearms: The Inmate Property Cage in Bay 7 is not designed for storage of any type of combustible or explosive material as required by Bureau of Alcohol, Tobacco, and Firearms (BATF) construction guidelines found in 27 CFR, Part 555(K).
  2. Ammunition: Ammunition as defined by 18 U.S.C. § 921(A)(17)(A) contains two types of explosives, a primer and a propellant powder, as defined by 18 U.S.C. § 40 848. The Inmate Property Cage in Bay 7 is meant for personal property and is not designed for storage of any type of combustible or explosive material as required by BATF construction guidelines found in 27 CFR, Part 555(K). In an effort to protect staff and property, ammunition may not be lodged in this storage area.
  3. Matches or lighters: These items are specifically listed because they are frequently found. These items have characteristics of ignitability as defined by CFR Title 40 (C)§ 261.21 and are therefore a danger to the property of others lodged in this storage area as well as staff should any reaction take place that would ignite these devices and other combustible material.
  4. All food items and perishable, biodegradable or vegetative substances including medical or recreational marijuana: The United States Food and Drug Administration guidelines for food storage found in 21 U.S.C. § 110 set forth a requirement that storage of food shall be under conditions that

will protect food against physical, chemical, and microbial contamination as well as deterioration. If food is improperly stored mold will develop and may cause a health hazard. This storage area is for the storage of personal property and is not equipped to properly store any of these items. In an effort to protect staff and property from contamination by mold or other foodborne illness, food or perishable items may not be stored in this storage area. Additionally, improperly storing food that is later consumed when released back to an inmate/arrestee may result in serious foodborne illness. No food or perishable item may be stored in this storage area in order to protect the LCSO from false claims of a violation of a “duty of care.” Perishable, biodegradable, and vegetative substances including medical/recreational marijuana have the potential to grow bacteria and expose staff to foodborne illnesses.

- a. Any marijuana, medical or recreational, should be lodged in the evidence lockers at the Main Office.
  - b. Deputies need to advise their custody that marijuana will not be returned to them under any circumstances.
5. Beverage containers/ alcohol containers/containers under pressure and their contents: The property storage area is subject to rapid daily temperature changes depending on the time of year and the weather conditions. Rapid changes in temperature may cause carbonated beverage containers to explode. Likewise, any other container under pressure may explode due to temperature changes. As it is hard to discern carbonated from non-carbonated beverages, all liquids will be treated as if they are carbonated. In an effort to protect an inmate/ arrestee’s property, as well as other adjacent property, beverages may not be lodged in this storage area, nor will any container under pressure be so stored.
  6. Propellants: Due to their unstable or perishable characteristics, propellants, to include e-cigarettes are not approved for storage in this storage area.
  7. Hazardous materials, chemicals, or clothing or property that has been contaminated by dangerous chemicals: Clothing contaminated by chemicals or other hazardous bio-contaminant: The United States Environmental Protection Agency classifies hazardous waste under CFR Title 40 (C) § 261. Materials classified as “potentially harmful” due to having characteristics of ignitability, corrosivity, reactivity or toxicity is dangerous. No material that has any of these characteristics may be stored. In an effort to protect staff and property, any substance with properties that make it dangerous or potentially harmful to human health or the environment may not be lodged in this storage area.

8. Live animals, plants or other organisms: This storage area is for the storage of personal property and is not equipped to properly store any of these types of items. Items of this kind cannot be cared for and may make it dangerous or potentially harmful to human health.

E. Guidelines for completing the inventory are as follows:

1. Obtain a property/evidence form.
2. Clearly list the inmate's name on the form and mark that the property is to be returned to the owner.
3. The pink copy of the property/evidence form must be attached to the items stored in the Inmate Property Cage.
4. The yellow copy must be annotated with the words, "Bay 7" in the "location" field and then be submitted to the Main Office P/E Unit.
5. Closed opaque containers, where the contents cannot be seen, shall not be opened but rather shall be inventoried consistent with their outward appearances only.
  - a. Absent specific staff or storage facility danger consisting of explosive devices, bomb paraphernalia, gas canisters, blood or other bio hazards, medical sharps, food or other organic material that will spoil and rot if not refrigerated, the following **shall not be opened**:
    - i. Closed paper/plastic bag, closed suitcase, cardboard box, or storage trunk (regardless of whether there is a lock on it).
    - ii. Altoids tin or similar object, film canister, individual cosmetics, or any other container that announces their contents, and that item is not explicitly prohibited (e.g. a light scope case marked as "light scope").
  - b. The fact that this list of items **might** contain valuables is not justification to open them. The containers must be **objectively likely** to contain valuables or **objectively likely** to contain a specific danger to staff or the storage facility in order to justify opening them.
  - c. The fact that the object contained inside might not be the same make or model as the container describes is not justification to open it.
  - d. The deputy performing the inventory shall limit their inventory so that the object is scrutinized only to the extent necessary to complete the inventory.
    - i. If the deputy performing the inventory opens a container of this category because it is objectively likely to contain

valuables or objectively likely to contain a specific danger to staff or the storage facility, the deputy shall document the specific observations that led them to that conclusion.

- e. If requested by the arrestee, the inventorying deputy shall open and inventory any of the above containers that would have otherwise been prohibited from being opened.
6. Because the following closed containers are uniquely designed to contain valuables, they **shall be opened** and their contents inventoried:
    - a. Purses, wallets, backpacks, coin purses, fanny packs, computer cases, cosmetic bags, prescription drug containers, unlocked brief cases, unlocked lock boxes, ring box or jewelry box. This should be treated as an exclusive list.
    - b. If the deputy finds containers inside any of the Mandatory Open items, a separate analysis of the internal containers is required. (E.g. If a purse contains makeup, the makeup will not be opened.)
  7. Because the following closed containers are uniquely designed to contain items identified in D1-D8 and knives which represent specified staff and storage facility safety concerns, they **shall be opened to remove the prohibited item** and the container shall be inventoried consistent with their outward appearances only. The deputy performing the inventory shall limit his/her inventory so that the object is scrutinized only to the extent necessary to complete the inventory.
    - a. Fishing tackle boxes for file knives
    - b. Gun cases, Gun socks, and Gun rugs for a firearm
    - c. Knife sheath or sword sheath for knives or swords
    - d. Open cigarette container for a lighters or matches
    - e. Paper lunch sacks, lunch boxes or similar containers that are uniquely designed to contain perishable food
    - f. Diaper bags for perishable food
  8. Reusable beverage containers will be emptied and placed within an inmate/arrestee's property empty and dry. All other containers will be discarded in a sanitary manner.