

**NEW SMYRNA BEACH POLICE DEPARTMENT
NEW SMYRNA BEACH, FLORIDA**

POLICY AND PROCEDURE DIRECTIVE

TITLE: ORGANIZATION & AUTHORITY/ CODE OF ETHICS

NUMBER: 2-1

EFFECTIVE: 1/14

REFERENCE:

RESCINDS/ AMENDS: 6.1-12 & 1-6-12

REVISED: 4/22

ATTACHMENTS: [CODE OF ETHICS, SWORN MEMBERS](#)
[CODE OF ETHICS, CIVILIAN MEMBERS & VOLUNTEERS](#)
[NEW SMYRNA BEACH PERSONNEL POLICIES & PROCEDURES Sec. III \(c\)](#)

A. PURPOSE

The purpose of this directive is to define and discuss the scope and limits of the law enforcement authority of the New Smyrna Beach Police Department. This directive will provide guidelines for the use of authority and discretion by sworn officers as alternatives to arrest.

The Chief of Police is responsible for the administration and supervision of law enforcement management functions of the New Smyrna Beach Police Department consistent with Florida State Statute [\(FSS\) 166](#), and the [City Charter](#).

It is recognized that in the course of their duties, officers will have to use discretion. Many instances of public contact will occur in which an arrest may be justified by state law but, an arrest should not, or is not made due to mitigating circumstances.

B. POLICY

It shall be policy that the Chief of Police will hire police officers to assist him in the performance of his duties, and those officers shall use judgment and discretion in the execution of their duties. It shall be the policy of the New Smyrna Beach Police Department to operate pursuant to authority vested by Florida State Statute.

It shall be the policy of the New Smyrna Beach Police Department that only sworn law enforcement officers may make an arrest with or without a warrant.

It shall be the policy of the department that not all arrestable offenses require incarceration. Alternatives to arrest and pre-arraignment confinement include, but are not limited to:

- The issuance of a citation or notice to appear for misdemeanors or violations of ordinances in accordance with the guidelines in this directive.
- Subjects committing offenses under the influence of alcoholic beverages, narcotics, or suffering from mental disorders may be referred to treatment centers in accordance with Florida law.
- Informal resolution of a specific problem.
- A verbal warning prohibiting the conduct.
- Referral to a community service organization.
- Juveniles may be released to a parent.

C. CODE OF ETHICS

All department members, to include volunteers, shall abide by a code of ethics as adopted by the department and prescribed by the [City of New Smyrna Beach Personnel Policies and Procedures](#).

D. CAMPAIGNING, LOBBYING, & POLITICAL ACTIVITIES

2.1.1 Members shall abide by regulations noted in [FSS 104.31](#), Political Activities of State, County and Municipal Officers and Members. [FSS 112.313](#), Public Officers & Members –General Provisions, [The City of New Smyrna Beach Personnel Policies and Procedures Sec. III \(D\)](#) with respect to political activities. Additionally;

1. Members shall not engage in political activities while on duty and/or in uniform, with the exception of approved union business.
2. Members shall not endorse a particular candidate or political issue in any way while on duty and/or in uniform.
3. While as a private citizen, members shall not state or imply in any way that their political views represent the New Smyrna Beach Police Department (NSBPD).
4. Members shall not use their official position when engaged in political activities.
5. The name of the NSBPD shall not be used in any campaign literature as an endorsement. Department equipment, uniforms or insignia shall not be used in any political campaign.

E. LIMITS OF AUTHORITY / LEGALLY-MANDATED AUTHORITY

2.1.2 The City of New Smyrna Beach, Volusia County, Florida may establish a police department and appoint police officers pursuant to the Constitution and laws of the State of Florida.

1. New Smyrna Beach police officers take an oath of office and swear to execute faithfully the duties of the office and will to the best of their ability preserve, protect and defend the Constitution and laws of the United States and this State.
2. [FSS 943.10 \(1\)](#) defines the duties and powers of a law enforcement officer as one, "Who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state." This definition includes all certified supervisory and command personnel whose duties include, in whole or in part:
 - The supervision, training, guidance, and management responsibilities of full-time, or Reserve law enforcement officers.
 - Does not include support personnel employed by the employing agency.

2.1.3 New Smyrna Beach police officers may within the scope of their authority make reasonable inquiries, conduct investigations, and arrest on probable cause.

1. Florida State Statutes give agency personnel the legal authority to carry and, if necessary, use their assigned weapons in the performance of their duties.

F. CONSTITUTIONAL REQUIREMENTS

2.1.4 In order to protect the constitutional rights of persons involved in criminal investigations, the following will be adhered to:

1. Officers will not coerce or obtain involuntary confessions from persons suspected of criminal involvement;
2. Prior to interrogating a suspect, whenever he/she is in custody or is otherwise deprived of freedom, an officer must first advise the suspect of his/her constitutional rights as required by the U.S. Supreme Court decision of *Miranda vs. Arizona* (1966); (What constitutes a custodial interrogation is initially a matter of interpretation by the officer. A court may view this interpretation differently at a later time. Consequently, when there is any doubt

as to whether or not the person to be interrogated is in custody, the officer will advise the person of his/her constitutional rights).

3. Right to Counsel - Once a defendant has expressed a desire to exercise the right to an attorney, he/she will not be interrogated until having had the opportunity to obtain advice from an attorney.

G. UNITY OF COMMAND

2.1.5 Accountability to Supervision

Each employee will be accountable to only one supervisor at any given time. (Occasions may arise requiring a supervisor to issue an order to an employee outside the supervisor's chain of command. In ordinary circumstances, however, each employee should be able to identify one and only one supervisor to whom they are accountable).

2.1.6 Command of Organizational Components

Each Division, Section, or Unit of this Department is under the direct command of only one supervisor.

1. Whenever there is an "over-lapping" shift, supervision will apply as follows:
 - The "On-duty" supervisor will be in charge until the end of their assigned shift, or until they relinquish authority to the "oncoming" supervisor.
 - If both supervisors are on probation and hold the same rank, the chain of command will be determined according to time and rank in grade. (Note: Time in grade is determined by the length of time within a given grade as determined by appointment date to that specific grade.)
 - The above will apply unless otherwise designated by a higher-ranking officer.

H. AUTHORITY & RESPONSIBILITY

2.1.7 Responsibility for Delegated Authority

The success of this Department requires that responsibility be accompanied with the necessary authority. Authority to execute the required activities of the Police Department is delegated by the Chief of Police through the command structure to individual members. At every level of the Police Department, members will be given the authority to make decisions necessary for the effective execution of their responsibilities.

1. The Chief of Police is ultimately responsible for the performance of the Department. To assist the Chief in accomplishing the goals and objectives of the Department, members are delegated sufficient authority to perform the duties of their assignment.
2. Each employee is expected to exercise good judgment in the use of authority that has been delegated to them. The employee will be held accountable for the use of such delegated authority, as well as for the failure to use it.

2.1.8 Accountability for Performance

Supervisors will be held accountable for the performance of the members under their immediate supervision.

1. Although supervisors may free themselves of the actual performance of a given task, supervisory officers cannot rid themselves of responsibility or accountability for the accomplishment of the task.

I. DIRECTION

2.1.9 A system of succession is established to ensure that leadership is available when the Chief of Police is absent from the city or is otherwise unable to command.

1. The Deputy Chief of Police commands the police department when the Chief is absent from the city. Should the Chief and Deputy Chief be absent simultaneously the Chief of Police shall designate a Division Commanding Officer to be in charge, and who shall be authorized to act on behalf of the Police Chief. All personnel shall be notified, in advance by electronic communication, of the designated Commanding Officer. However, in the event of an emergency or unexpected absence, the succession is as follows:
 - The Deputy Chief of Police is designated as the second highest ranking officer in the line of command.
 - The Operations Division Commanding Officer is designated as the third highest-ranking officer in the line of command;
 - The Support Services Division Commanding Officer is the fourth highest-ranking officer in the line of command;
 - Next in line of command are the ranks of Lieutenant and Sergeant. Command shall default to the senior Sergeant.
2. In the event of an emergency, and unless or until the Chief of Police can be notified and assume command, command of the Department will rest with the highest-ranking officer on duty.
3. In situations involving personnel of different functions engaged in a single operation, the highest ranking officer will take charge of the situation and direct the actions of personnel at the scene unless and until they direct another officer to take command or they are relieved of command by a higher authority.
4. Some situations require a higher level of training or expertise. When those occur, the specialist will assume command of the situation, incident, or scene as necessary.
5. The normal day-to-day agency operations rest with the individual shift supervisors.
6. In the event a situation arises that requires a higher authority make a decision, then the appropriate Division Commanding Officer or, in their absence, their designee will be notified to handle the situation.
7. If a Division Commanding Officer or designee is not available, then the Chief of Police will be notified of the situation.
8. In situations where concurrent jurisdiction exists, members of this Department will comply with the provisions of this Written Directive.

J. ORDERS, OBEDIENCE TO/CONFLICTING/UNLAWFUL ORDER

2.1.10 Members are required to obey any lawful order issued by a supervisor, including any order relayed from a supervisor by an employee of the same or lesser rank. Orders are presumed to be lawful orders, and subordinates disobey them at the risk of disciplinary action.

2.1.11 Any order which would require you to break the law is an unlawful order and you are duty bound not only to disobey the order, but to report it to competent authority as soon as possible.

2.1.12 Any employee who receives an order that conflicts with any previous order or instruction will advise the person who issued the second order of the conflict.

1. Responsibility for countermanding the original order rests with the supervisor who issued the second order.
2. In the event neither issuing supervisor can be readily advised, the employee will carry out the most recent order and advise a supervisor of the conflict as soon as practical.

Revised: RR 4/22

**Approved: Signature on File
Chief Mike Coffin**