

8. *Restraint and force used (title 12, ch. 7, sec. 8)*

"No greater restraint than is necessary shall be used for the detention of any person, and no unnecessary or unreasonable force shall be used in making an arrest."

(a) How much force may be used in making an arrest? The rule is usually stated rather glibly that as much force can be used as is absolutely, or reasonably necessary. This is essentially true, but it is a generality and could be misleading to an uninformed or nonthinking policeman. There are certain other conditions that must exist.

(1) Unless the officer acts under a valid warrant or has legal grounds for arresting without a warrant, he cannot employ any force. Once again it cannot be emphasized too strongly that there must be a legitimate reason, according to law, for stopping, detaining, or arresting a person initially.

(2) If the officer fails to identify himself properly, or to communicate his authority, he cannot use any force.

(3) If the officer has legal grounds for making an arrest, the use of any force is unreasonable if the subjects submit peacefully: and the officer using unreasonable force may be subject to departmental charges, plus criminal and/or civil charges.

(4) If the subject resists, the officer is entitled to stand his ground; "He need not retreat" as some courts phrase it—and make every reasonable effort to subdue him.

(5) If the resistance actually places the officer's life in danger, he may kill in self-defense, regardless of the original offense charged against the subject.

(6) If the officer's life is not threatened, he may kill a felon to complete his arrest if he has to; but he must stop short of taking the life of a misdemeanant.

9. *Conditions justifying force dangerous to life (title 12, ch. 7, sec. 9)*

"A police officer may use force dangerous to human life to make a lawful arrest for committing or attempting to commit a felony, whenever he reasonably believes that such force is necessary to effect the arrest and that the person to be arrested is aware that a peace officer is attempting to arrest him."

(a) This section is explained in the explanation for the previous section.

10. *Resisting illegal arrest (title 12, ch. 7, sec. 10)*

"It shall be unlawful for any person to use force or any weapon in resisting an illegal arrest by a peace officer, if such person has reasonable ground to believe that he is being arrested and that the arrest is being made by a peace officer."

(a) This section makes it unlawful for anyone to resist arrest even though he knows the officer has the wrong man. For instance, if an officer has a warrant for James Palmer and he approaches a man he thinks is James Palmer and attempts to place him under arrest, even though this man is not James Palmer he cannot resist arrest. Technically this is an illegal arrest but the man must submit and go along to the station where the mistake would be corrected.

(b) Although there are no specific provisions in our statutes for resisting arrest under common law all persons must follow a lawful order of a peace officer, and under title 11-32-1 every person who shall obstruct any officer in the performance of his duty shall be imprisoned not exceeding 1 year or fined not exceeding \$500.

11. *Summons instead of arrest (title 12, ch. 7, sec. 11)*

"In any case in which a peace officer is authorized to arrest without a warrant a person for a misdemeanor, he may instead issue to him a summons—

"Willful failure to appear in answer to such summons may be punished by a fine of not over \$50 or imprisonment for not over 15 days. Upon failure to appear, a warrant of arrest may issue."

(a) The Providence Police Department recently instituted a policy whereby a police officer may issue a summons for a traffic violation.

12. *Release of arrested person by officer in charge of police station (title 12, ch. 7, sec. 12)*

"The officer in charge of any police station may release any person in his station who has been arrested without a warrant:

"(a) Without requiring such person to appear in court, when he is satisfied that there is no ground for making a criminal complaint against such person or