



City of Racine Police Department  
**Policy and Procedure**

**Number: 902**

Subject: <b>Release by Law Enforcement of Persons in Custody</b>		
Date Issued: <b>02-20-81</b>	Effective Date: <b>01-20-12</b>	Revision Number: <b>4</b>

**POLICY:**

The Racine Police Department has a procedure in place allowing the release of the person in custody by a law enforcement officer. This procedure ensures both consistency and good judgement are applied when the decision is made to release a person in custody. This is necessary to ensure the protection of the Department, the community it serves, as well as the citizens in custody.

**DEFINITION:**

Generally speaking an "Arrest" is defined as, when a reasonable person in the suspect's position would have considered him/herself in custody given the degree of restraint applied under the circumstances. Examples of when a suspect might reasonably believe he/she is in custody include, but are not limited to: a statement by the police that the suspect is under arrest, a statement by police that the suspect must accompany police to the station, or placement of the suspect in a police vehicle and departure of the vehicle from the scene.

**SPECIAL CIRCUMSTANCES:**

It is acknowledged that the release of a person in custody can be an important investigative tool. This policy is not intended to prevent the release of a suspect in custody under these circumstances. The release of the suspect may proceed following review of the investigation by both a supervisor and a member of the District Attorney's Office.

**PROCEDURE:**  
**MEMBER:**

When a member determines there is a bonafide reason to release a person in custody, the member shall:

1. Consult with a supervisor and:
  - a. Explain the circumstances that support the request to release a person from custody, i.e. differing witnesses that come forward since the time of arrest or apprehension, the probable cause has eroded or disappeared.
  - b. Present copies of all the documents supporting the original arrest or apprehension for the supervisor's review.
  - c. Articulate the reasons for requesting that the arrest be voided.
2. If the supervisor does not approve the release of the person in custody, proceed with processing the remainder of the paperwork related to the incident.
3. If the supervisor approves the release of the person in custody:
  - a. Make arrangements to have the person in custody released and returned to a parent (if juvenile), or his/her vehicle, at the scene or home.
  - b. Document the events leading to the release of a person in custody in the following manner:
    - 1) Mark a completed Arrest or Apprehension report in the following manner, **VOID – UNARRESTED**, and forward to records.
    - 2) Contact Communications and void any arrest or apprehension number obtained for the suspect in the incident.
    - 3) Prepare a supplemental report (RPD PP95A), including all of the suspect information, use of force by the member and probable cause for the original arrest. Then detail the reason for the suspect's release without an arrest, including the supervisor approving the release of the suspect.
4. Contact your supervisor, prior to release, for further guidance should the situation fall under the special circumstances provision.

**SUPERVISOR:**

1. When a Member requests to release a person placed in custody during the current shift evaluate all of the information presented and determine if release is appropriate based on a totality of the circumstances:
  - a. If release from custody is not appropriate, explain why and tell the member to continue with the paperwork related to the incident.
  - b. If the circumstances warrant release of the person in custody:
    - 1) Ensure that the member completes the paperwork, clearly stating the reasons for the initial arrest as well as the reasons for the release of the person from custody.
    - 2) Ensure that any arrest/apprehension number obtained prior to deciding to release the person is voided through Communications on their logsheet.
2. Once the decision has been made to release a person, ensure you make every reasonable effort to meet with that person and explain the original justification for the arrest, as well as the evolution of the process that led to the decision to release. Communication with the person should be “in person” and as open a conversation as possible.
3. Review any request for release of the suspect that may fall under the special circumstance provision. Follow through by contacting a member of the District Attorney’s Officer for additional instructions and approval of the release from custody.

**SHIFT/UNIT  
COMMANDER:**

1. If a supervisor or member requests your assistance in the decision making process for releasing a person in custody, review the circumstances presented by the member and the supervisor.
  - a. If the circumstances do not warrant the release of the person in custody, explain to the supervisor and the member why release is not appropriate.
  - b. If the circumstances permit release of the person, ensure that the person is released and the completed reports clearly articulate the reasons for the release.

**NOTE:**

This policy is not intended to cover the voiding of routine traffic citations, municipal court citations or parking tickets voided in accordance with written Department policies and guidelines provided for under law.

**RELATED  
PROCEDURE:**

[901 – Arrest and Incarceration](#)  
[Table of Contents](#)

**RELATED  
STATUTE:**

§968.08 – Release by law enforcement officer of arrested person