

GENERAL ORDERS | SOUTH MIAMI POLICE DEPARTMENT



G.O. Number: 18.16	Subject: Homeless Persons Procedures	
Chapter: 18 Uniform Patrol Operations	Number of Pages: 07	
CFA Standard(s): N/A	Effective: 01/01/2021	
By Order of Chief of Police : Rene G. Landa Chief of Police		Revised: N/A Status: New

SECTIONS:

- 18.16.1** **Definitions**
- 18.16.2** **Procedures**
- 18.16.3** **Property of Homeless Persons**
- 18.16.4** **Community Outreach Teams/ Resources**

RESCINDS: Any other existing orders in conflict.

PURPOSE: To establish departmental policy and provide guidelines for the intervention and protection of the South Miami homeless population.

SCOPE: All departmental sworn personnel.

POLICY: To provide appropriate law enforcement services to the entire community while ensuring that department personnel are sensitive to the needs, rights and personal property of our homeless population. This sensitivity will be accomplished by utilizing any available resources and homeless intervention techniques and offer homeless persons assistance. This policy should not be construed as protecting persons (whether homeless or not) from arrest for engaging in any other type of criminal behavior or illegal activity.

18.16.1 DEFINITIONS

- A. **AVAILABLE SHELTER:** Means a shelter, with a bed or a mat , at no cost to the homeless person, within the territorial boundaries of Miami Dade County, that treats homeless persons with dignity and respect, imposes no religious requirements, and unless requested by the homeless person, does not impose involuntary substance abuse or mental health treatment as a condition for shelter.
- B. **EXEMPT PUBLIC PROPERTY:** The following are “exempt public properties;” (1) City of South Miami City Hall, City of South Miami Police Department, City of South Miami Motor Pool, and the Gibson Community Center. A homeless person’s presence in the interior of an “exempt public property” is not a trespass when the homeless person’s activities are reasonably related to the governmental business activities normally performed within these physical structures.
- C. **HOMELESS PERSON:** An individual who lacks a fixed, regular and adequate night-time residence or has a primary night-time residency that is;
1. A supervised publicly or privately operated shelter designated to provide temporary living accommodations;
 2. An institution that provides a temporary residence for individuals intended to be institutionalized;
 3. A public or private place not designed for, ordinarily used as, a regular sleeping accommodation for human beings.
 4. The term “homeless person” does not include any person identified as a registered sex offender under section 775.21 Fla. Statute, as amended, or sexual predator under section 775.215 Fla. Statute, as amended, or sections 21-277 to 21-2185 Miami Dade County Code.
- D. **LIFE SUSTAINING CONDUCT MISDEMEANORS:**
1. Being in a park after hours;
 2. Public nudity necessary to carry daily necessities of life;

3. Fire in a park;
 4. Obstructing sidewalks;
 5. Loitering in a restroom;
 6. Littering;
 7. Camping in a park or other public area;
 8. Use of facilities for other than the intended purpose (i.e.: sleeping on a park bench);
 9. Building a temporary structure in a park or other public area; or
 10. Trespass on or in “public property” other than a structure or conveyance;
- E. **PUBLIC PROPERTY:** “Public Property” includes all property owned by any governmental entity (federal, state, or local). “Public Property” shall not include property which has become subject to a lease interest or management agreement.

18.16.2 PROCEDURES

- A. **Contacts:** Contacts with homeless persons will comply with Federal and State Laws, County Ordinances, and departmental policies and procedures. An officer has the right to approach any individual and ascertain that no criminal activity is occurring.
- B. **Consensual Encounters:** All on-duty SMPD Officers are encouraged to approach any homeless person, who is not observed engaging in criminal activity or behavior, in an effort to offer assistance and advise them of shelters, services, or assistance which is currently available.
 1. Officers shall not order any homeless person to move to another location when that homeless person has a legal right to be present where he or she is, subject to requests to move for safety or security or other constitutionally permissible

reasons. It is Department policy not to give “move-on” orders and not to arrest people for failure to move on if there is another reasonable way to resolve the situation. Officers shall not give “move-on” orders to persons merely because the person is or appears to be homeless.

2. An officer is allowed to make reasonable inquiry to make a determination on a person’s homeless situation or status, however, a person is not required to answer the officer.
3. Officers will attempt to ascertain if a homeless person is interested in being reunited with family or friends, or obtaining services such as transportation, placement in a shelter, job training, and/or health and mental health services.
4. The homeless person may or may not accept help, the advice or referral, or he/she may even walk away from the area prior to providing assistance. The purpose is to pro-actively address the homeless person with referrals.
5. Officers may offer to transport homeless persons to a family member or friend’s residence, or to any homeless assistance center, but will first obtain permission from their supervisor. The person shall be searched for weapons and/or contraband prior to being transported.

C. **Non-Consensual Encounters:**

1. **First-Degree Misdemeanor or Felony Violation:** Officers with probable cause to arrest a homeless person for a first-degree misdemeanor or felony criminal violation will follow standard arrest procedures.
2. **“Life Sustaining Conduct” Misdemeanors:** Officers with probable cause to arrest a homeless person for a “Life Sustaining Conduct” Misdemeanor (second-degree misdemeanor or ordinance violation) will perform the following:
 - a. A homeless person who is observed committing a “Life Sustaining Conduct” Misdemeanor or ordinance violation will be detained.
 - b. Officers will request the on-duty South Miami Communications Officer to verify if the homeless person has been reported missing and/or any open

wants or warrants.

- c. Officers shall contact the SMPD office to ascertain if any of the exclusive South Miami shelter beds at Camillus House are available. If no beds are available at Camillus House, Officers may request Communications to contact alternate shelters as listed in Section 18.16.4 in an effort to secure shelter for the homeless person. Officers may offer the shelter to the homeless person as an alternative to arrest. If the homeless person chooses shelter rather than arrest, the Officer will transport the homeless person to the shelter.
 - d. Under no circumstances will the individual be allowed to continue engaging in the illegal conduct.
3. If an officer has sufficient probable cause to arrest a homeless person for a second degree misdemeanor or ordinance violation, and there is an “available shelter”, but the homeless person refuses the shelter, or if the sole available shelter at the time is a shelter from which the homeless person is barred from because of his/her own purposeful past misconduct, criminal or otherwise, which occurred at that shelter, the Officer may arrest the homeless person. Officers must document on the Complaint/Arrest Affidavit (A-Form) beyond the probable cause for the arrest; the offer of shelter, the refusal by the homeless person to accept the “available shelter”, and/or the facts or circumstance surrounding why they were “barred” from the shelter.
 4. **Baker Act or Marchman Act:** If an Officer’s homeless person encounter reveals the person has not committed a crime, but he/she reasonably believes the person meets the criteria for involuntary admission for mental illness and/or substance abuse, Officers will ensure the person receives assistance. The officer will transport the homeless person to the nearest and most appropriate receiving facility. The officer and supervisor have discretion as to the appropriate facility.

18.16.3 PROPERTY

- A. Personal property belonging to homeless persons will be treated and handled with care and respect by SMPD Officers at all times. Officers shall follow existing policies for taking custody of personal property. The nature of homeless person's property can be summarized as follows:
 - 1. Such property is reasonably identifiable by its nature and organization; it typically includes bedrolls, blankets, clothing, toiletry items, non-perishable food, identification, and a means for transporting the property such as a plastic bag, cardboard box or suitcase;
 - 2. Homeless persons often make arrangements for others to watch property in their absence;
 - 3. The homeless often arrange their belongings in such a manner as to suggest ownership – e.g., they cover it with a pillow or blanket;
 - 4. By its appearance, the property belonging to homeless persons is reasonably distinguishable from truly abandoned property;
 - 5. The loss of items, such as clothes, medicine and identification documents, affects the health and safety of homeless individuals;
 - 6. A homeless person's personal property is generally all he/she owns; therefore, while it may look like "junk" to some people, its value should not be discounted.
- B. The existence, appearance, quantity, status, disposition, etc., of a homeless person's personal property will not discourage or prevent SMPD Officer's from offering them homeless assistance.
- C. Officer's will ensure all personal, important and/or valuable items, such as personal identification, important documents, money, medicine, eyeglasses, and any other small items of importance identified by the homeless person, that is not an illegal weapon or contraband, must stay with them.

18.16.4 COMMUNITY OUTREACH TEAMS/ RESOURCES

- A. The existing partnership between the City of South Miami Police Department and Camillus House provides SMPD Officers with positive options for assisting homeless persons by offering the following services:
1. The City of South Miami Police Department currently has two (2) dedicated emergency shelter beds where homeless persons can have refuge from the elements at Camillus House.
 2. The beds are located at Camillus' Campus, 1603 NW 7th Avenue, Miami, FL 33136. (Main entrance is located at NW 15th St /NW 7th Ave).
 3. The two (2) current beds will be available on a 24-7 basis to allow SMPD Officers to make placements at any hour as needed for up to thirty (30) days. Additional time may be allotted to participants if a bed is or has become available at the discretion of the SMPD Community Affairs Officer.
 4. Persons participating in the South Miami/Camillus House Emergency Shelter Partnership will have access a full continuum of services specifically designed for persons who are homeless.