

"Keep Orlando a safe city by reducing crime and maintaining livable neighborhoods."

ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE

1121.3, POLICE NOTARY POWERS

EFFECTIVE:	7/22/15
RESCINDS:	1121.2
DISTRIBUTION:	ALL EMPLOYEES
REVIEW RESPONSIBILITY:	POLICE LEGAL ADVISOR
ACCREDITATION CHAPTERS:	NONE
CHIEF OF POLICE:	ORLANDO ROLÓN

CONTENTS:

1. PERSONS DESIGNATED AS NOTARIES
2. FALSE STATEMENTS TO A NOTARY
3. USE OF NOTARY POWERS
4. APPLICATION OF NOTARY SIGNATURES
5. PROHIBITIONS
6. REMOTE ADMINISTRATION OF OATHS

POLICY:

It shall be the policy of this Department to conform with §117.10, Fla. Stat., in regard to notary powers. Orlando Police Department law enforcement officers may act as notaries in the performance of their official duties.

All law enforcement officers may notarize documents in connection with the performance of official duties. Officers need not formally apply, be bonded, pay a fee, or use a notary seal.

Traffic accident investigation officers and traffic infraction enforcement officers (Community Service Officers—"CSOs") are authorized to act as notaries only:

1. If the CSO is licensed and bonded as an official notary public, or
2. If the CSO is not a notary public, only in connection with his or her official duties as a traffic crash investigation or infraction enforcement officer. For example, a CSO who is not an official notary public is authorized by Chapter 117 to notarize only those documents connected to his/her traffic accident investigation or traffic infraction enforcement duties. A CSO who is not otherwise a notary public would not be authorized to notarize a witness affidavit in other cases such as burglary and theft reports.

The Department will authorize notary licensing for qualified Community Service Officers as deemed appropriate by the Department.

PROCEDURES:

1. PERSONS DESIGNATED AS NOTARIES

The law applies to law enforcement officers (full-time and reserve), traffic accident investigators, traffic infraction enforcement officers, and correctional officers. The word "officer" when used in this policy shall include law enforcement officers or CSOs in the execution of their official duties as traffic accident investigation or traffic infraction enforcement officers. Other Department employees are not covered by this statute and may not notarize documents unless they are otherwise qualified as a notary.

2. FALSE STATEMENTS TO A NOTARY

Any person who makes a false oath before any notary is guilty of perjury, and when not in an official proceeding, commits a first degree misdemeanor. A violation of City Ordinance Sec. 43.16 may also be charged.

3. USE OF NOTARY POWERS

The notary powers apply only to official duties. Officers may not use these powers to conduct marriages, witness deeds, or conduct other personal business, even if the officer is on duty. False or fraudulent use of the notary power is a felony.

The notary powers permit officers to notarize any official Departmental document, arrest affidavits, notices to appear, witness statements, and other sworn documents.

An officer may not notarize his/her own signature.

4. APPLICATION OF NOTARY SIGNATURES

4.1 ADMINISTERING THE OATH OR AFFIRMATION

Once an officer has reviewed the document to be notarized, the officer should administer the oath or affirmation to the person. The person should be directed to raise his/her right hand and the officer should ask, "Do you swear or affirm that this is correct and true?" After a positive reply, the officer should witness the signature.

Officers are required to "swear or affirm" to the truth and correctness, in the presence of a notary, of their own documents when submitting statements or affidavits in the same manner as noted above.

4.2 APPLICATION WITH A NOTARY BLOCK

An officer signing in a predesignated notary space should sign the notary line with rank/title, name, department abbreviation, and ID number (i.e., Ofc. G.H. Smith, OPD, 1234).

4.3 APPLICATION WITHOUT A NOTARY BLOCK

If there is no predesignated notary form on the document, the officer should write as follows:

"Sworn to (or affirmed) and subscribed before me this
_____ day of _____, 20____."

By: Ofc. G.H. Smith, OPD, 1234
Notary Public/LEO

The officer should fill in the correct day, month, and year.

5. PROHIBITIONS

In accordance with §117.10 and 117.107, Fla. Stat., a notary public may not:

- a. Use a name or initial in signing certificates other than that by which the notary public is commissioned.
- b. Acknowledge an instrument in which the notary public's name appears as a party to the transaction.
- c. Affix his or her signature to a blank form of affidavit or certificate of acknowledgment and deliver that form to another person with the intent that it be used as an affidavit or acknowledgment.
- d. Take the acknowledgment of or administer an oath to a person whom the notary public actually knows to have been adjudged mentally incapacitated by a court of competent jurisdiction, where the acknowledgment or oath necessitates the exercise of a right that has been removed pursuant to §744.3215(2) or (3), Fla. Stat., and where the person has not been restored to capacity as a matter of record.

- e. Take the acknowledgment of a person who is blind until the notary public has read the instrument to such person.
- f. Take the acknowledgment of a person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does understand.
- g. Change anything in a written instrument after it has been signed by anyone.
- h. Notarize a signature on a document if the person whose signature is being notarized is not in the presence of the officer at the time the signature is notarized unless the oath is administered by reliable electronic means.

6. REMOTE ADMINISTRATION OF OATHS

In accordance with §117.10, Fla. Stat., a law enforcement officer, traffic accident investigation officer, and traffic infraction enforcement officer, acting in the scope of their authority, may remotely administer an oath, thereby allowing the officer to administer the oath either in the presence of the affiant or by electronic transmittal of the document from the affiant through means compliant with the Criminal Justice Information Systems security measures as administered by the FDLE.