

April 14, 2020

Dear Sir, or Madam,

I am putting you under administrative notice as to the limits of arrest power pursuant to Tenn. Code Ann. 40-7-103, arrest by officer without warrant.

This notice re-establishes the notice given by the statute itself as a public document. This administrative notice is intended to give you fair warning that your actions are under scrutiny by the people, jealous of defending their rights. It is intended to caution you on your use of arrest powers so that you might avoid a general warrant scheme forbidden in the bill of rights.

The law identifies 11 grounds for arrest without a warrant, including a felony. It specifies that an officer may arrest a citizen without a warrant if the citizen or person commits a “public offense” or threatens a breach of the peace in the officer’s presence. This notice establishes the definition of public offense, which police, sheriff’s deputies, magistrates and district attorneys routinely ignore under pretense that “public offense” means any crime. Warrants are forward-looking, and give judicial sanction to future action. They give permission to arrest before the arrest takes place.

The bill of rights is clear: No arrest without a warrant in hand. General warrants are outlaw. “Section 7. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty and ought not be granted.”

The statute gives exceptions to the ban on warrantless arrests. It is a grant to peace officers and law enforcement officers to arrest *without a warrant*. But the grant goes only so far.

Disregard of the law — or of this notice reiterating its provisions — is to act against the rights of the people and outside the protection of the law. To violate this law, particularly in light of administrative notice, is false arrest with malice and in bad faith. False arrest in practice, and false arrest *under general permission or policy*, are triable and indictable offenses under Tenn. Code Ann. § 39-16-403, official oppression.

If you and your officers exceed the grants given in statute, you are putting yourselves — your persons and estates — in jeopardy. You violate the oath of office and open yourself or your officers to tort action by private attorneys for damage in violation of an individual's right to due process.

A response to this notice is not legally required. However, under well established rules regarding notice in Tennessee case law, nonresponse will be understood at trial as an act of acquiescence and acceptance, an estoppel to any denial that you knew the black-letter law as written and explained.

Respectfully yours,

David J. Tulis