

Oakland County Sheriff's Office
General Order # 3.5



SUBJECT: Adult Arrests		NUMBER: 3.5
EFFECTIVE DATE: 2/14/2023 REVIEW DATE: Annually		MACP Standard Impact: 3.1.3 and 3.1.4
REPLACES AND RESCINDS: P&P 028 Misdemeanor Arrests, P&P 14 Non-Custody Arrests	DISTRIBUTION: All Personnel	NUMBER OF PAGES: 9

This order replaces and rescinds all previously issued orders, procedures, rules and regulations, notices and/or practices in conflict with this General Order.

I. PURPOSE

The purpose of this order is to provide deputies of the Oakland County Sheriff's Office with basic guidelines for conducting adult arrests.

II. POLICY

It is the order of the Oakland County Sheriff's Office that all arrests made by agency personnel shall be conducted professionally and in accordance with established legal principles. In furtherance of this order, all deputies of this agency are expected to be aware of, understand and follow the laws governing arrest. This order sets forth the fundamentals of the arrest procedure.

III. DEFINITIONS

- A. Arrest: The taking, seizing or detaining of another person by either touching or putting hands on that person, or by any act that indicates an intention to take him or her into custody and subjects the person arrested to the actual control and will of the person making the arrest and must be so understood by the person arrested.
- B. Arrest warrant: A written order issued by a judge, magistrate or other proper authority that commands a law enforcement deputy to place a person under arrest.
- C. Probable cause for arrest: When facts and circumstances within a deputy's knowledge are sufficient to warrant a prudent person, or one of reasonable caution, to believe that the suspect has committed, is committing or is about to commit an offense.
- D. Investigative detention: Temporary detention of a person for investigative purposes based upon reasonable suspicion that the person has committed, is committing or is about to commit a crime, under circumstances that do not amount to probable cause for arrest (also known as a Terry stop).

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- E. Reasonable suspicion: A particularized and objective basis, supported by specific and articulable facts, for suspecting a person of criminal activity; the degree of suspicion of criminal activity that justifies an investigative detention but not an arrest.
- F. Citizen contact: An encounter between a deputy and a citizen that may be initiated by the deputy for any reason and during which the citizen is free to leave at any time.
- G. Exigent circumstances: A situation in which a deputy must take immediate action to effectively make an arrest, search or seizure for which probable cause exists, and thus may do so without first obtaining a warrant. Such emergency situations are those that "would cause a reasonable person to believe that entry (or relevant prompt action) was necessary to prevent physical harm to the deputies or other persons, the destruction of relevant evidence, the escape of the suspect or some other consequence improperly frustrating legitimate law enforcement efforts."
- H. Weapons display: Drawing a handgun or readying a shotgun or similar firearm for quick use if needed without pointing it at a suspect.

IV. PROCEDURES

A. Basis for Arrest

Deputies shall conduct arrests only when based upon probable cause or an arrest warrant, or the offense is committed in the deputy's presence.

1. Probable Cause / Arrests Made Without a Warrant (**MACP Standard 3.1.3 b**)

- a. Deputies may make probable cause arrest for all felony crimes, all 93-day misdemeanor crimes (as authorized by Michigan Law), and any crime committed in the deputy's presence.
- b. Probable cause for arrest may be established by one or more of the following:
 - i. Observations of the deputy
 - ii. Information or evidence obtained during an investigative detention (Terry stop) or during consensual citizen contact
 - iii. An identified citizen's specific complaint
 - iv. Information provided by a police informant of proven reliability
 - v. Information provided by other law enforcement sources
 - vi. The investigation of the deputy
- c. Deputies shall not make any arrest based solely upon the following:
 - i. Information received from an anonymous source
 - ii. Mere suspicion, not amounting to probable cause

2. Arrest Warrants (**MACP Standard 3.1.3 a**)

- a. Except when a warrantless arrest is justified by the existence of probable cause, arrests shall be made under an arrest warrant.
- b. Arrest warrants shall be obtained from a judge, magistrate or other legal authority empowered to issue such warrants in this jurisdiction.
- c. Such warrants shall be in the form prescribed by the law of this jurisdiction and shall adequately identify the person to be arrested. The warrant shall also provide such other information as is required by law.
- d. Any deputy to whom an arrest warrant is delivered shall examine it to ensure that it is in proper form, that all information required by law is provided, and that the warrant appears to be valid. The deputy shall also take note of any restrictions placed upon the arrest by the language of the warrant.

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- e. Once received, an arrest warrant shall be entered into the LEIN system without delay pursuant to LEIN policy.
 - f. No arrest shall be made at a time or in a manner contrary to any express limitations included in the warrant.
 - g. In addition, no arrest shall be made in a manner or at a time or place prohibited by any of the following:
 - i. Departmental regulation
 - ii. State or local legislation
 - iii. Applicable court decisions
3. In cases of serious offenses, whether felony or misdemeanor, the deputy or investigator holding the warrant shall advise their supervisor who shall make plans for the execution of the warrant. Wherever possible, arrests shall be planned in advance in consultation with a supervisor or other experienced deputies.
 4. Where advance planning and consultation are not possible, the arrest shall be made in accordance with departmental training in arrest procedures.
 5. Arrests shall be made at a time and place and in a manner that will maximize the probability of a successful arrest and minimize the danger to deputies and innocent bystanders.
 6. Whenever possible, arrests shall be made in a location where the arrest will not pose a threat to the safety of the public (e.g., not in crowded places where bystanders may be injured should the arrestee offer resistance, particularly resistance involving the use of firearms).
 7. No deputy shall enter premises owned or occupied by a third person to make an arrest unless the deputy has a separate legal basis for entering the premises. Such a basis may be provided by any of the following:
 - a. Possession by the deputy of a search warrant for those premises
 - b. Consent of a person empowered by law to give such consent
 - c. Exigent circumstances
- B. Use or Show of Force During Arrest**
1. Deputies shall use only that level of force that they reasonably believe is necessary to make an arrest in accordance with this agency's "Response to Resistance" (Use of Force) General Order.
 2. Weapons shall be displayed during an arrest only where it is reasonably believed necessary to ensure the safety of the deputies or others for the successful completion of the arrest.
- C. Arrestee Requests**
1. Following the arrest, deputies shall not permit arrestees to leave the immediate area of the arrest for personal purposes (e.g., to get a coat). In exceptional cases where it is deemed necessary to grant the arrestee's request, the arrestee shall first be searched for weapons and then be accompanied and closely monitored by the arresting or other deputies.

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D. Safety Precautions (MACP Standard 3.1.3 a,b)

1. Deputies shall approach every arrest situation with the knowledge that any arrest, regardless of the offense involved, may present an element of danger. Therefore, deputies making arrests shall take all reasonable precautions to ensure their own safety.
2. Restraint of the Arrestee
 - a. All arrested persons shall be handcuffed after being taken into custody.
 - b. Other lawful forms of restraint may be used when necessary and reasonably available for the safety of deputies, prisoners and others.
 - c. Arrestees **shall not** be restrained in such a manner where their hands and ankles are bound behind their back, commonly referred to as "the four-point restraint".

E. Search Incident to Arrest

1. Deputies are authorized to search a person incident to their lawful arrest.
2. A search incident to a valid arrest shall be limited to an arrestee's person and the area within his immediate control, including containers.
3. When deputies have made a lawful arrest of the occupant of a motor vehicle, they may search the passenger compartment in the area of the occupant if they believe they will find evidence relevant to the crime for which the person was arrested.
4. A cell phone may not be searched incident to arrest. Deputies must obtain a search warrant or have exigent circumstances to search a cell phone.
5. Strip searches shall be conducted pursuant to the "Strip and Body Cavity Searches" General Order. Any deputy conducting a strip search of an arrestee in the field shall be prepared to justify the reasons for such a search and to document those reasons in a subsequent written report.
6. Body cavity searches shall not be conducted in the field. Any body cavity search shall be conducted pursuant to the "Strip and Body Cavity Searches" General Order with a Search Warrant.

F. Post-Arrest Protection

1. Deputies shall be aware that, following an arrest, they are legally responsible for the safety of the arrestee, any victims present and all bystanders. Therefore, deputies shall take all steps reasonably necessary to protect:
 - a. the deputy from the arrestee.
 - b. victims and third persons from the arrestee.
 - c. the arrestee from self-injury or injury by others.
2. Deputies shall not allow victims into close proximity with the arrestee and shall prevent bystanders from approaching the arrestee until the arrestee is transported from the scene. In addition, deputies shall not allow the arrestee out of their immediate presence for any reason until the arrestee is properly secured, searched and transported.

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G. Transportation of Arrestees

1. All arrestees shall be searched before being transported and whenever custody of the prisoner is transferred to another deputy.
2. All arrestees shall be handcuffed or otherwise restrained during transportation in accordance with Sheriff's Order.
3. Before and after an arrestee is transported, the area of the transporting vehicle to be occupied by the arrestee shall be searched for articles, including articles that may have been left behind by previous arrestees that may present a hazard to the transporting deputies.
4. Security devices in the transporting vehicle, such as door locks and security screens, shall be checked to be certain that they are operating properly.
5. All security devices shall be utilized during transport.
6. Deputies shall seat arrestees in the vehicle in accordance with Sheriff's Orders and training.
7. All arrestees shall be safely restrained with seatbelts.

H. Processing of Arrestees (MACP Standard 3.1.3 f,g)

1. Processing (fingerprinting, routine booking questions, "mug shot" photographing) of arrestees is required after an arrest. Processing shall occur when:
 - a. the identity of the arrestee is questionable.
 - b. required or allowed by law.
 - c. the offense is a state or local charge and a transaction control number (TCN) is required by the prosecution.
 - d. the offense is punishable more than 92 days (except for DWLS offenses with positive identification).
2. The processing requirement may be waived/delayed when, at the discretion of a supervisor, processing would cause undue danger to themselves or the arrestee. Examples include an uncooperative subject or an intoxicated subject unable to participate in the processing component.
3. Detailed booking direction may be found in the Sheriff's General Order "Booking New Inmates/Update Court Records".

I. Misdemeanor Arrests

1. The Oakland County Sheriff's Office shall NOT accept misdemeanor or civil arrests into the jail for processing until after the defendant has been arraigned. The only exceptions to this practice are contained in Section (a) listed below. All Oakland County municipal, township and State Police agencies have been notified of this practice. No misdemeanor arrests shall be accepted, prior to arraignment, by those law enforcement agencies that have their own lockup. Agencies that do not have their own lockup are encouraged to make arrangements with a neighboring lockup to temporarily detain defendants before arraignment. The Booking/Shift Sergeant shall be responsible for discretionary decisions on questions arising about the acceptance of defendants prior to arraignment.

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- a. Criteria for acceptance of misdemeanor arrests prior to arraignment
 - i. Probable cause arrests for OUIL, OUIIN, Domestic Assault and PPO Violation shall be accepted.
 - ii. Assaultive misdemeanor charges carrying a maximum jail penalty over 93 days, including Aggravated Assault, Stalking, CSC IV, Child Abuse III and IV and Soliciting Child for Immoral Purposes shall be accepted.
 - iii. Acceptance of warrant arrests for PPO Violation or Domestic Assault shall be accepted at the discretion of the Booking/Shift Sergeant. Misdemeanor probation violations are considered a new charge and shall not be accepted.
 - iv. Friend of the Court charges and warrants shall be accepted.
 - v. Defendants participating in a Sobriety Court program and detained for violating Court orders or restrictions shall be accepted.
 - vi. Only those law enforcement agencies NOT having their own lockup shall be able to detain defendants prior to arraignment, according to the above listed criteria.
2. No defendants shall be lodged on misdemeanor warrants from other counties, with the exception of those listed in Section I(1)a(iii), and those must have confirmation of pickup from the warrant jurisdiction.

J. Interim Bonds

1. The Interim Bond Statute permits the arresting deputy to accept no more than the maximum allowable fine and as low as 20% of the amount of the minimum possible fine which can be imposed for the arresting charge. Interim bonds are not taken on the road for PPO, Domestic Assault charges or warrants and probable cause OUIL/N. If the defendant is determined to have enough money to post the minimum allowable fine, the arresting deputy should issue a bond and not retain custody of the defendant.

K. Non-Custody Arrests

1. It shall be the order of the Sheriff's Office that under certain circumstances, sworn personnel may make a "non-custody" arrest when a subject meets the deputy either at a District Court or a Substation for immediate arraignment in court. While it is not always necessary to transport a subject to the Oakland County Jail for booking and then to return him/her to court, it is necessary by law to create an arrest record. This procedure does not relieve a deputy of the responsibility of making custody arrests when appropriate or when dictated by statute.
 - a. At the time of the arrest/arraignment, deputies will do the following:
 - i. Take and complete two (2) sets of RI-7 fingerprints with all appropriate entries.
 - ii. Take and complete one (1) set of FBI fingerprints.
 - iii. One RI-7 and FBI fingerprint card will be immediately forwarded to the Prosecutor's Office for tracking and the remaining RI-7 card will be forwarded to our Records Unit.
 - iv. Take at least one profile photo with a department-issued camera available in all substations. Label with name of the subject, date of birth and complaint number.
 - v. Complete an "Oakland County Jail Booking Record" for the subject.
 - vi. These items, together with a copy of the incident report, an arrest supplement and the arraignment and bond supplement, shall be immediately forwarded as a packet to the Records Unit.

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- b. Records Unit Procedures
 - i. Create an arrest record and file.
 - ii. Assign the subject an inmate number.
 - iii. Indicate the subject has been released on bond.

L. Arrest of Juveniles

- 1. All deputies shall be aware that the arrest, transportation and booking of juveniles are subject to special legal requirements. Deputies shall be familiar with and observe these special requirements at all times when arresting juveniles and refer to Sheriff's General Order "Procedures for Juvenile Offenders."

M. Citation in Lieu of Incarceration (MACP Standard 3.1.3 c)

In accordance with Public Act 393 of 2020 (MCL 764.9c as amended), a deputy who arrests a person without a warrant for certain misdemeanor or ordinance violations having a maximum penalty not exceeding one year in jail, may serve an appearance ticket and release the arrestee from custody. (Exceptions noted below)

- 1. Appearance tickets shall NOT be issued for any of the following:
 - a. Domestic violence (MCL 750.81, MCL 750.81a, or an offense involving domestic violence as defined in MCL 400.1501)
 - b. A person subject to detainment for violation of a personal protection order
 - c. A person subject to a mandatory period of confinement, condition of bond or other condition of release until he or she has served that period of confinement or meets the requirement of bond or other condition of release
 - d. A person arrested for a serious misdemeanor or any other assaultive crime. Serious misdemeanors and assaultive crimes include (MCL 750.811, MCL 770.9a(3)):
 - i. Assault and battery / domestic violence (MCL 750.81)
 - ii. Aggravated assault / aggravated domestic violence (MCL 750.81a)
 - iii. Breaking and entering / illegal entry (MCL 750.115)
 - iv. Contributing to the delinquency of a minor (MCL 750.145)
 - v. Use of a computer to commit certain crimes (MCL 750.145d)
 - vi. Intentionally aiming a firearm without malice (MCL 750.233)
 - vii. Discharge of a firearm intentionally aimed at a person without malice (MCL 750.234)
 - viii. Discharge of an intentionally aimed firearm resulting in injury (MCL 750.235)
 - ix. Indecent exposure (MCL 750.3356a)
 - x. Stalking (MCL 750.411h)
 - xi. Injuring a worker in a work zone (MCL 257.601b)
 - xii. Leaving the scene of a personal injury accident (MCL 257.617a)
 - xiii. Operating while intoxicated/impaired resulting in property damage, physical injury, or death (MCL 257.625)
 - xiv. Selling/furnishing alcohol to a minor resulting in physical injury or death (MCL 436.1701)
 - xv. Operating a motorboat while intoxicated/impaired resulting in property damage, physical injury, or death (MCL 324.80176)
 - xvi. Communicating a threat to MDHHS employee (MCL 750.81c)
 - xvii. Intentional conduct against pregnant individual resulting in physical injury to embryo or fetus (MCL 750.90b)
 - xviii. Improperly marked explosives (MCL 750.212)
 - xix. Handling explosives while under the influence of alcoholic liquor or controlled substance (MCL 750.204c)

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2. Exceptions to Issuing Required Appearance Tickets

An offender arrested for a violation requiring release on an appearance ticket may be taken into custody if a reason for non-release exists. Reasons for non-release include:

- a. The arrested person refuses to follow the deputy's reasonable instructions. (MCL 764.9c(5)(a))
- b. The arrested person will not offer satisfactory evidence of identification. (MCL 764.9c(5)(b))
- c. There is a reasonable likelihood that the offense would continue or resume, or that another person or property would be endangered if the arrested person is released from custody. (MCL 764.9c(5)(c))
- d. The arrested person presents an immediate danger to himself or herself or requires medical examination or medical care. (MCL 764.9c(5)(d))
- e. The arrested person requests to be taken immediately before a magistrate. (MCL 764.9c(5)(e))
- f. Any other reason that the deputy may deem reasonable to arrest the person which must be articulated in the arrest report. (MCL 764.9c(5)(f))

3. Additional Requirements.

When a suspected offender arrested for a misdemeanor offense is not released upon issuance of an appearance ticket, the deputy shall:

- a. Take the arrested person before a magistrate.
- b. Promptly file a complaint.
- c. Specify the reason for not issuing a citation in an arrest report.
- d. Forward the report to the appropriate prosecuting attorney without delay.

An arrested person who is taken into custody instead of being issued an appearance ticket must be charged by the prosecuting authority or released from custody not later than 3 P.M. the day immediately following the day of arraignment. (MCL 764.9c(7))

4. No Right to Issuance of Appearance Ticket.

MCL 764.9c does not create a right to the issuance of an appearance ticket in lieu of arrest, and neither does this order. An arrested person may appeal the legality of his or her arrest as provided by law. However, an arrested person does not have a claim for damages against a deputy or the Sheriff's Office because he or she was arrested rather than issued an appearance ticket.

N. Release after Arrest (MACP Standard 3.1.3 c)

1. If, after an arrest, it becomes apparent that there is no probable cause to hold the arrestee, the arrestee may be released under the following conditions:
 - a. The deputy is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.
 - b. The decision is made by a supervisor.
2. If the person is released, a deputy shall ensure that the person is released at a safe location and is not otherwise placed at risk as a result of the incident. If necessary, a deputy should provide transportation for the released person to a safe location.

O. Release Pending Investigation or Pending Warrant (MACP Standard 3.1.3 c)

1. Deputies may, based on the totality of their investigation, release an arrestee pending further investigation or until a prosecutor review of the case has been conducted and a warrant issued.

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- P. Other Alternatives to Custodial Arrest (MACP Standard 3.1.3 c)
1. It is recognized that there may be other circumstances where the custodial arrest of a subject might be delayed or waived. These circumstances may include, but are not limited to, mental health commitment, hardship concern and medical concern. When a deputy has the authority to arrest an individual but decides that it is in the best interest to forgo said arrest, they should first discuss the matter with their immediate supervisor.
- Q. Reporting of Arrests (MACP Standard 3.1.3 d)
1. All arrests, citations in lieu of incarceration or situations involving an arrest alternative shall be documented in a case report form via CLEAR RMS.
 2. When deputies issue a misdemeanor citation in lieu of arrest (without meeting the definition of arrest indicated in this order) the deputy shall complete a crime report with the cited person listed as 'citation issued.' A person issued a misdemeanor citation without being taken into custody shall be listed as an arrestee in CLEAR RMS.
- R. Dependents of Arrestee (MACP Standard 3.1.4)
1. In arrest situations where dependents (such as minor children) of the arrestee are present, deputies shall insure that alternate care is arranged or offered. This care may include:
 - a. Turning minor children over to other family members.
 - b. If a traffic-related offense arrest, offering/arranging a ride to a safe location for other passengers.
 - c. Transportation to the Sheriff's Office facility to make arrangements for other alternate care.
- S. Limited Capacity Arrests and Arrests of Foreign Nationals (MACP Standard 3.1.3 e)
1. If the arrested individual is of limited capacity, (i.e., having limited English skills, visual impairments or auditory challenges) and further assistance is needed, deputies shall utilize the appropriate interpreter resources as outlined in the "Language Interpretation Service" and "Communicating with People who are Deaf or Hard of Hearing" General Order or other local resources as needed. For arrests of Foreign Nationals or Diplomats, refer to the "Foreign Nationals and Diplomats" General Order.



ISSUED BY: Sheriff Michael J. Bouchard