



**SUBJECT:** Arrests, Extradition, and Prisoners

**TO:** Department Members

This Order establishes department policy and member responsibilities for the following:

<b><u>Section 14.1</u></b>	<b>ARRESTS, WARRANTS, AND INJUNCTIVE ORDERS IN THE LAW ENFORCEMENT INFORMATION NETWORK (LEIN), MILITARY DESERTERS, AND AWOLS</b>	2
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#### **14.1 ARRESTS, WARRANTS, AND INJUNCTIVE ORDERS IN THE LAW ENFORCEMENT INFORMATION NETWORK (LEIN), MILITARY DESERTERS, AND AWOLS**

- A. This section describes the arrest authority of the enforcement members. It also establishes LEIN procedures for the entry, cancellation, and filing of warrants and injunctive orders. In addition, this section establishes procedures for handling outstanding warrants against inmates and for LEIN hits for military deserters and those who are away without leave (AWOL).

##### **14.1.1. ARREST AUTHORITY**

###### **A. Definition of Arrest**

An arrest is basically when the police deprive a person of his or her liberty by legal authority. Black's Law Dictionary defines the term as taking, under real or assumed authority, custody of another for the purpose of holding or detaining him/her to answer a criminal charge or civil demand.

###### **B. Elements of Arrest**

- (1) All five of the following elements of a lawful arrest must be present for an arrest to be valid:
- a. Authority
  - b. Intent
  - c. Force

- d. Custody
  - e. Submission
- (2) Authority
- a. Enlisted members derive arrest authority from 1935 PA 59, as amended ([MCL 28.1 – 28.15](#)). They are vested with the authority of a peace officer in executing the criminal laws of the state and all laws for the discovery and prevention of crime. They may serve and execute all criminal processes arising from criminal proceedings.
  - b. Enlisted members may serve and execute civil process when directed to do so by the Governor or Attorney General, in actions and matters in which the state is a party.
    - i. Other state departments may obtain warrants to assist them in investigating or inspecting businesses or other establishments for compliance with the [Michigan Occupational Safety and Health Act](#). The state is a party to such civil actions and, when requested by these departments, enlisted members shall cooperate in the service of such warrants if their workload permits.
  - c. Civil process emanating from district courts may be served by enlisted members, and by motor carrier officers when enforcing commercial vehicle laws, without further authorization when the state is a party.
  - d. Enlisted members, and motor carrier officers enforcing commercial vehicle laws, may execute civil bench warrants issued by a circuit court pursuant to any domestic relations matter, defined in [MCL 552.502](#) as:
    - i. A circuit court proceeding as to child custody or parenting time, or child or spousal support that arises out of litigation under a statute of this state, including but not limited to the following:
      - 1) Divorce Act, [MCL 552.1 to 552.45](#)
      - 2) The Family Support Act, [MCL 552.451 to 552.459](#)
      - 3) The Child Custody Act of 1970, [MCL 722.21 to 722.30](#)
      - 4) Status of Minors and Child Support, [MCL 722.1 to 722.6](#)
      - 5) The Paternity Act, [MCL 722.711 to 722.730](#)
      - 6) Revised Uniform Reciprocal Enforcement of Support Act, [MCL 780.151 to 780.183](#)
      - 7) The Uniform Interstate Family Support Act, [Act 255 of 2015](#)
    - ii. Civil warrants issued by a circuit court pursuant to any domestic relations matter shall not be accepted for service or entry into LEIN by members.
  - e. Enlisted members, and motor carrier officers when enforcing commercial vehicle laws, may execute civil bench warrants issued by a district court when the state is a party. Generally, these are traffic-related violations and in such cases the district court issues a civil bench warrant pursuant to [MCL 257.908](#).

- f. Additional information regarding arrest authority of motor carrier officers is outlined in Official Order No. 44, and that of state properties security officers is outlined in Official Order No. 45.

(3) Intent

- a. The arresting party must have the intent to arrest. The arrested subject should be informed of this intent.

(4) Force

- a. Force to make the arrest shall be used, but only to the extent necessary to make the arrest.
- b. Force may take the form of a verbal command or physical contact.

(5) Custody

- a. Verbal or physical custody or control must be exercised by the arresting enforcement member.

(6) Submission

- a. There must be a submission to the arrest by the arrested subject. This may be voluntary or forced. Submission is present when custody or control is gained.

#### 14.1.2. ARREST RECORDING AND PROCEDURES

##### A. Arrest Reporting

- (1) All persons arrested or apprehended shall be entered into the department's electronic incident reporting system.
- (2) One Arrest Per Person, Per Incident Report
  - a. For purposes of recording arrests, a subject may only be arrested once on each incident investigated.
  - b. Each subject arrested on an incident may be charged with one or more violations of law (counts), according to the guidelines provided in this Order.
  - c. One Juvenile Apprehension Report form, UD-023, shall be completed on each juvenile apprehended on an incident.
- (3) Uniform Law Citation for Non-Traffic Misdemeanor and Felony Arrests
  - a. Personnel are not required to complete the Uniform Law Citation for non-traffic misdemeanor and felony arrests where neither the suspect nor court requires a copy of the ticket.
  - b. At a minimum, the names of arrested persons shall be entered into the department's electronic incident reporting system so that they may be later retrieved through a computer search.
- (4) When an enforcement member assists another post, unit, or department where an arrest is made by the other post, unit, or department, the assisting enforcement

member shall complete an incident report in the electronic incident reporting system and close the report TOT other agency.

(5) Incident Report

- a. When a person is arrested for a non-traffic offense by a member, an incident report shall be completed in the electronic incident reporting system.

(6) Arrest Record and Daily Report

- a. The name of each subject arrested or apprehended shall be recorded in the electronic incident reporting system and on the appropriate daily report.

(7) Traffic Arrest

- a. Policy and procedures for recording traffic arrests made according to the Michigan Vehicle Code are outlined in Official Order No. 17.

(8) Injunctive Order Arrest

- a. When an enforcement member enforces an injunctive order violation, the proper charge is "Criminal Contempt of Court-Injunctive Order" and shall be treated as a misdemeanor arrest.

(9) Bond Conditional Release Order

- a. When an enforcement member enforces a Bond Conditional Release Order, it shall be treated as a misdemeanor arrest.

B. Fingerprinting

- (1) When a subject is arrested for a felony or misdemeanor, the subject shall be fingerprinted. See Official Order No. 29.

C. Arrest Without a Warrant by Enforcement Members at the Originating Post, Unit, or Department

- (1) When a subject is arrested without a warrant, he or she may initially be charged with only one count in each of the following crime classifications, regardless of the number of incidents investigated.

- a. Crimes Against State (File Class: 0100 - 0300)
- b. Crimes Against Persons (File Class: 0900 - 1400)
- c. Crimes Against Property (Part I) (File Class: 2000 - 2400)
- d. Crimes Against Property (Part II) (File Class: 2500 - 2900)
- e. Violation of Controlled Substance Article (File Class: 3500)
- f. Crimes Against Morals and Decency (File Class: 3600 - 4200)
- g. Crimes Against Public Order (File Class: 4800 - 8900, Except 5200)
- h. Weapons Offenses (File Class: 5200)

- (2) The policy charging a subject with only one count per classification shall not prohibit enforcement members from seeking additional counts from the prosecutor.
- (3) When an enforcement member at the post or unit wanting the subject, makes an arrest without a warrant, the following procedure shall be used:
  - a. The post or unit shall be contacted to advise that an arrest has been made and to report the enforcement member's location and the name of the subject in custody.
  - b. A Juvenile Apprehension Report form, UD-023, shall be completed on each juvenile apprehended on an incident.
- (4) Complete an arrest report as instructed in Section 14.1.2.A if a prior arrest report has not been completed.

D. Arrest with a Warrant (Non-Fugitive) Originated by the Home Post, Unit, or Department

- (1) When an enforcement member apprehends a subject wanted on a non-fugitive warrant originated by the home post or unit, the following procedure shall be used:
  - a. The post or unit, or their warrant holder, shall be contacted to ensure that the warrant is still valid, to inform them that the subject is in custody, and to report the enforcement member's location.
  - b. One Juvenile Apprehension Report form, UD-023, shall be completed on each juvenile apprehended on an incident.
  - c. The warrant shall be canceled in LEIN and returned to the issuing court.
  - d. Complete an arrest report as instructed in Section 14.1.2.A if the subject arrested as a result of a bench warrant is turned over to the post or unit holding the warrant.
  - e. See MICR Bulletin for proper arrest reporting.

E. Fugitive Arrests

- (1) A fugitive arrest is defined as:
  - a. An arrest with a warrant held by another post, unit, or department.
  - b. An arrest without a warrant for another post, unit, or department.
- (2) To satisfy a fugitive warrant, one of the following criteria shall be met:
  - a. The subject is brought before the court issuing the warrant.
  - b. Bond is accepted for the offense.
  - c. The subject is turned over to the jurisdiction holding the warrant or the department requesting the person's arrest.
    - i. A person cannot be turned over to more than one department. Therefore, only those charges that are satisfied as outlined above and those warrants

held by the department that the subject is turned over to may be carried as counts and reported in the electronic incident reporting system.

- (3) When an enforcement member apprehends a subject for another post, unit, or department, this procedure shall be followed:
  - a. The originating post, unit, or department shall be contacted by LEIN or telephone in all cases to ensure the warrant/want is still valid, to determine if they will extradite or call, and to advise the subject is in custody.
  - b. No one shall be lodged on a LEIN hit/response until the validity of the LEIN record has been verified; except for court entered warrants that are valid on their face (LEIN caveat reads "CONFIRMED AND VALID"). Questions regarding the validity of the warrant must be clarified by the originating jurisdiction, preferably after contact has been made with the issuing court.
    - i. When the originating department has been contacted by telephone, the arresting post or unit shall follow up by sending a LEIN Hit Confirmation Request message asking the agency to confirm the warrant and specify whether they will call for the subject or extradite them. The message should also include the location where the person is being held, if he or she is charged locally, and any additional related information.
    - ii. If the post, unit, or department wanting the subject indicates that it will not call, or the distance exceeds the mileage specified on the warrant's pickup range, the subject shall be released, and no further action taken.
    - iii. If the post, unit, or department wanting the subject indicates that it will call, or specifically requests that the subject be released on interim bond or personal recognizance, the arresting post or unit shall submit an arrest or apprehension report and carry a fugitive arrest. The arresting post or unit shall then immediately notify the originating department by LEIN or telephone that the warrant has been served and must be canceled in LEIN, and the status of the arrested subject (i.e., lodged, held at post, released on bond or personal recognizance, amount of bond).
- (4) Picking Up a Fugitive Arrested by Another Agency
  - a. When an enforcement member apprehends a subject that has been arrested by another law enforcement agency on an outstanding warrant from the originating post or unit, this procedure shall be followed:
    - i. The post or unit shall be contacted to ensure the warrant is still valid, to advise the subject is in custody, and to report the enforcement member's location.
    - ii. The warrant shall be canceled in LEIN and returned to the court.

#### 14.1.3. WARRANT/INJUNCTIVE ORDER RETENTION POLICY

- A. Department work sites that maintain 24-hour operations shall retain their warrants/injunctive orders locally unless there is an agreement with a dispatch center or a local law enforcement agency for them to do so. These off-site locations must have LEIN access, be staffed 24 hours per day, and have personnel available to confirm warrants at any time. The department work site shall enter into a LEIN Holder of the Record Agreement with the dispatch center or local law enforcement agency.

- B. Work sites that do not maintain a 24-hour operation may hold warrants/injunctive orders at the post and enter into a LEIN Hit Confirmation Agreement with another 24-hour agency or enter into a LEIN Holder of the Record Agreement with a 24-hour agency who will hold warrants/injunctive orders on the department work site's behalf.
- C. Work sites whose warrants/injunctive orders are held by another post, unit, or department shall immediately telephone the post, unit, or department holding the warrant/injunctive order when notified by the court that it is being recalled.
- D. Work sites with LEIN access may retain warrants/injunctive orders in the post warrant/injunctive order file for other posts, units, and departments that do not maintain a 24-hour operation. When warrants/injunctive orders are being retained for another jurisdiction, the following additional procedures shall be used:
  - (1) The work site shall enter into a LEIN Holder of the Record Agreement with all non-MSP agencies whose records the work site is holding.
  - (2) Warrant/injunctive order entry, cancellation, and recall requests shall be made through the post, unit, or department through which the warrant/injunctive order was issued. Entering posts shall not deal directly with the courts on warrants/injunctive orders for other agencies.
  - (3) The post, unit, or department requesting the entry of the record into LEIN shall conduct the monthly LEIN warrant/injunctive order validation for its own warrants/injunctive orders; however, the servicing post may enter the LEIN validation transaction on behalf of the requesting post, unit, or department.
    - a. LEIN Holder of the Record and LEIN Hit Confirmation Agreements are not required between MSP work sites.

#### 14.1.4. PROCEDURES UPON RECEIPT OF A WARRANT/INJUNCTIVE ORDER

- A. Department work units shall attempt to serve all criminal warrants.
- B. Entry into LEIN

Valid warrants/injunctive orders shall be immediately entered into the LEIN system.

- (1) Warrants
  - a. All available information shall be included on the LEIN warrant record, such as the subject's physical description, operator's license number, and social security number. If only limited information is available, the warrant shall still be entered into LEIN. The LEIN record shall be immediately updated when further information is obtained.
  - b. Pick-Up Radius
    - i. Felony Warrants
      - 1) All felony warrants shall indicate a "statewide" pick-up radius on the LEIN record.

ii. Misdemeanor Warrants

- 1) Misdemeanor warrants for the following offenses shall indicate a "statewide" pick-up radius on the LEIN record:
  - a) Operating Under the Influence of Intoxicating Liquor or a Controlled Substance.
  - b) All crimes against persons (including domestic violence).
  - c) Bench warrants resulting from any of the above crimes.
- 2) All other misdemeanor and traffic warrants shall indicate a pick-up radius of no less than 25 miles on the LEIN record.

c. Bond

- i. The bond amount determined by the issuing magistrate shall be entered in the appropriate field.

(2) Injunctive Order

- a. Members entering injunctive orders into LEIN shall ensure that:
  - i. The post, unit, or department requesting entry of the injunctive order into LEIN has a true copy of the injunctive order in its possession.
  - ii. The period of time for which the order is valid is stated on the injunctive order.
  - iii. The injunctive order says on its face that a violation of its terms, subjects the person to criminal contempt of court charges.

(3) Posts/units with LEIN terminals shall proceed as follows:

- a. When a warrant/injunctive order is received from the court:
  - i. A Warrant/Vehicle Worksheet may be completed.
  - ii. The warrant/injunctive order shall be immediately entered into LEIN.
  - iii. A member entering a warrant into LEIN that results from a Commercial Vehicle Citation, MC-008, shall ensure that the driver is the defendant on the citation.
    - 1) If the carrier or owner is listed as the defendant on the citation, a warrant should not have been obtained and shall not be entered into LEIN. If the carrier or owner is the defendant, the warrant shall be returned to the motor carrier officer issuing the citation to seek a corporate summons for the responsible party.
  - iv. When the required information has been entered into the LEIN system, the LEIN printout that verifies the warrant/injunctive order has been entered and indicates the assigned System Identification Number (SYSIDNO) shall be stapled to the warrant/injunctive order and placed in an envelope with the

subject's name neatly printed across the top as follows: last name, first name, and middle initial, in that order.

- b. When a warrant/injunctive order entry request is received from another post, unit, or department:
  - i. The warrant/injunctive order shall be immediately entered into LEIN.
  - ii. If the warrant/injunctive order will be retained in the post or unit warrant file, the warrant/injunctive order and LEIN printout, which verifies the warrant/injunctive order has been entered and indicates the assigned system identification number (SYSIDNO), shall be placed in an envelope.
    - 1) The subject's name shall be printed neatly across the top of the envelope as follows: last name, first name, and middle initial, in that order, along with the name of the originating post, unit, or department. The post, unit, or department submitting the warrant/injunctive order shall be immediately advised of the assigned SYSIDNO.
  - iii. If the warrant/injunctive order is being retained by the originating post, unit, or department, the originating post, unit, or department shall be immediately advised of the SYSIDNO when the warrant/injunctive order has been entered.

(4) Post, units, and departments without LEIN terminals shall proceed as follows:

- a. An original and one copy of the Warrant/Vehicle Worksheet shall be completed when the warrant/injunctive order is received.
- b. Another post, unit, or department using the originating post's LEIN terminal/workstation must use its own ORI on the warrant worksheet and entry.
- c. The original copy of the Warrant/Vehicle Worksheet, and the warrant/injunctive order, when permitted in Section 14.1.3.B, shall be forwarded to the jurisdictional terminal assigned to provide LEIN service.
- d. If being retained locally, department work units shall staple the warrant/injunctive order and worksheet together and place them in an envelope with the subject's name neatly printed across the top; last name, first name, and middle initial, in that order. When the warrant/injunctive order has been entered in LEIN, the SYSIDNO received from the entering jurisdiction shall be recorded on the outside of the envelope.

C. Filing Warrants/Injunctive Orders and Warrant/Vehicle Worksheets

- (1) Posts or units holding warrants/injunctive orders shall maintain one warrant/injunctive order file containing all warrants/injunctive orders. The envelopes containing the warrant/injunctive order and SYSIDNO shall be filed alphabetically by last name.
- (2) A department work unit that forwards warrants/injunctive orders to another agency for LEIN entry shall maintain a warrant/injunctive order worksheet file. The envelopes containing the Warrant/Vehicle Worksheet and SYSIDNO shall be filed alphabetically by last name.

- (3) The method of folding these documents prior to filing will depend primarily on the type of filing cabinet available at the post. If small, envelope-size cabinets are not available, an 8 1/2 x 11" file drawer may be used.
  - (4) Individual alphabetical files may be broken down into smaller units if the volume of warrants/injunctive orders becomes too large for easy handling.
  - (5) Warrants/injunctive orders shall not be placed in the warrant/injunctive order file until the information has been entered into the LEIN system.
- D. Traffic and criminal warrants shall not be forwarded to another post, unit, or department for service except in unusual circumstances and as provided in Section 14.1.3.B.
- (1) If the location of the wanted person is known and the post or unit will call for the subject if apprehended, the post or unit handling the warrant shall advise the appropriate post via radio, telephone, LEIN, or supplementary report of the outstanding warrant and other related information.
  - (2) The originating post or unit shall call for the wanted subject in the event a bond cannot be posted, or the subject is not released on personal recognizance.
- E. An incident report shall be submitted by the originating post or unit for each warrant/injunctive order entered into the LEIN and/or NCIC system with the exception of traffic warrants, bench warrants originating from a traffic violation, bench warrants originating from simple misdemeanors, and warrants/injunctive orders entered for other agencies. When the necessary information on an injunctive order has been entered into LEIN, the incident report may be closed.

#### 14.1.5. CANCELLATION PROCEDURE

##### A. Warrants

- (1) It is the originating jurisdiction's responsibility to immediately cancel or cause to be cancelled if the warrant is held by another post, unit or department, a warrant that has been served or recalled.
- (2) Warrants shall be canceled in the LEIN system immediately by the entering post or designee in the following cases:
  - a. A subject has been arrested on a warrant entered by that post or unit.
  - b. It is learned and confirmed that the wanted subject has been released on bond or personal recognizance.
  - c. It is learned and confirmed that the person wanted on a warrant has appeared in court voluntarily. Authorities from the Criminal Justice Information Center (CJIC) and the State Court Administrative Office have developed the following two-step procedure for recalling warrants in such a case:
    - i. The court will notify the department to which the warrant was delivered for service by telephone.
    - ii. The court will follow up by completing and delivering two copies (pink and goldenrod) of its Warrant Recall Form, MC-220, to the responsible department.

- (3) Upon cancellation of the warrant, the disposition procedure outlined below shall be followed:
  - a. Warrants received from the court shall be returned to the court. Warrants received from other posts, units, or departments shall be returned to the originating department.
  - b. When the subject has appeared in court voluntarily, the post or unit shall acknowledge receipt of the warrant recall form from the court by signing the form and indicating the date and time.
    - i. One copy of the form shall be returned to the court, and another shall be retained with the master incident report if an incident report has been completed.
    - ii. If the form is a carbonized form using colored paper, members shall distribute the forms as shown on its instructions.
  - c. After canceling a warrant for a post, unit, or department without a terminal, the terminal post or unit shall immediately verify the cancellation by phone or radio and forward a printout of the cancellation to the originating agency, if so desired by the originating agency.

B. Injunctive Orders

- (1) Injunctive orders shall remain in LEIN for the time period indicated on the face of the order unless recalled by the court. An injunctive order record in LEIN shall not be canceled if a person is arrested for a violation of the order.
- (2) Only the originating jurisdiction may cancel or cause to be cancelled if the injunctive order is held by another post, unit, or department, an injunctive order which has been entered into LEIN and/or the NCIC system.
- (3) Injunctive orders entered into LEIN will be automatically purged on the expiration date. The LEIN will generate a notification to the agency when the record is removed.
- (4) Non-expiring injunctive orders require manual cancellation by the originating agency or by the entering agency if the injunctive order is held by another post, unit, or department.
- (5) Upon automatic or manual cancellation of an injunctive order, the following procedures shall be used:
  - a. Each month, both terminal and non-terminal posts shall file the true copy of the injunctive order and proof of service with the closed incident report in the isolated master file.
  - b. After an injunctive order is canceled for a non-terminal post, unit, or department, the terminal post shall immediately notify the originating post, unit, or department by radio or telephone that the injunctive order has been canceled. The true copy of the injunctive order and proof of service or bond conditional release order shall be forwarded to the originating post, unit, or department.

#### 14.1.6. WARRANTS AGAINST INMATES

- A. When a warrant has been obtained by a member for an inmate of a penal institution, the warrant shall be entered in LEIN pending the inmate's arrest and arraignment on the charges.
  - (1) Copies of the warrant shall be left with the prosecuting attorney to obtain the necessary writs.
  - (2) In addition, the Department of Corrections shall be notified by means of a LEIN administrative message that felony charges are pending against an inmate.
  - (3) The prosecuting attorney and sheriff of the county from which the warrant originated are responsible for making the arrangements for the return of the prisoner, as well as any transportation to facilitate their subsequent court appearance.
- B. The Department of Corrections may be notified when an inmate is considered a suspect in an active felony investigation.
  - (1) Notification to the Department of Corrections may be made through use of a LEIN administrative message.
  - (2) This notification will prompt Department of Corrections personnel to contact the investigating enforcement member for updates on the status of an investigation. Notification will remain in the inmate's file for 180 days unless an extension is requested by the investigator.
  - (3) The Department of Corrections will contact the investigator involved to inform them of a change in the inmate's status, such as eligibility for parole, residential placement, camp placement, parole release, or discharge.
  - (4) Notification of a pending criminal investigation is placed in the inmate's file and is subject to disclosure through the Freedom of Information Act. Michigan also permits inmates access to their file when under consideration for parole.

#### 14.1.7. WARRANTS FOR OTHER STATE DEPARTMENTS

- A. Enforcement members of other state departments will conduct the preliminary investigation and complete the case, including contacting the prosecutor, up to the point of securing the warrant, ensuring entry of the warrant into LEIN.
- B. The enforcement members of other state department will then contact the state police post of venue for service of the warrant and processing of the individual arrested. In most cases, arrangements will have been made with the suspect to voluntarily surrender.
- C. The post shall carry the arrest and process the suspect. The enforcement members from the other state department will conduct any follow-up investigation that is required and serve any resulting subpoenas.
- D. If a warrant cannot be immediately served and arrangements cannot be made for the suspect to appear at the post, the post of venue or designated regional dispatch center shall enter the warrant into LEIN.
  - (1) Work sites shall ensure that all available information is included in the LEIN warrant entry for warrants entered into LEIN as court entered/paperless warrants.

#### 14.1.8. MILITARY DESERTERS AND AWOLS

- A. When enforcement members encounter deserters or those away without leave (AWOL) who have been entered in the LEIN/NCIC systems and the wanted status has been properly verified with the military authorities, arrests shall be made for the desertion or AWOL charge, and the entering jurisdiction notified accordingly. In instances where the military wishes to make an arrest and requests the necessary assistance, enforcement members may accompany them in an assistance role.
- B. In cases where a warrant has been issued for a member of the Michigan Army or Air National Guard for either AWOL or desertion under the Michigan Code of Military Justice, [MCL 32.1000-32.1148](#), enforcement members shall serve the warrant and fully cooperate with National Guard authorities.

#### 14.2 FOREIGN DIPLOMATS AND CONSULAR OFFICIALS, PROCEDURES AFTER ARREST, DETENTION, OR DEATH OF FOREIGN NATIONALS; FEDERAL IMMIGRATION ENFORCEMENT; IDENTIFICATION PROCEDURES; WORKING WITH VICTIMS/WITNESSES; INTERACTIONS WITH PERSONS WITH LIMITED ENGLISH PROFICIENCY

- A. This section establishes policies and procedures relating to the following:
  - (1) Diplomatic and consular officials encountered in an incident by a member of this department.
  - (2) Arrest, detention, or death of foreign nationals lawfully present in the United States.
  - (3) Interactions with non-citizens, or persons who may be non-citizens.
  - (4) Interactions with persons with limited English proficiency.

##### 14.2.1. GENERAL POLICY FOR FOREIGN DIPLOMATS AND CONSULAR OFFICERS

- A. Diplomatic and consular officers shall be accorded their respective privileges, rights, and immunities as directed by international law and federal statute. These officials shall be treated with the courtesy and respect that befit their distinguished positions. At the same time, it is a well-established principle of international law that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect local laws and regulations.
- B. Diplomatic Immunity
  - (1) Diplomatic immunity, a principle of international law, is broadly defined as the freedom from local jurisdiction accorded to duly accredited diplomatic officers, their families, and servants. Diplomatic officers shall not be arrested or detained except for the commission of a grave crime. Family members of diplomatic officers, their servants, and employees of a diplomatic mission are entitled to the same immunities under current U.S. law, [22 U.S.C. 254a-e](#), if they are not nationals of or permanently residing in the receiving state.
  - (2) Associated with this personal diplomatic immunity is the inviolability enjoyed by the premises of the mission of the sending state and the private residence of a diplomatic agent, his or her property, papers, and correspondence.

C. Diplomatic Officers

- (1) Ambassadors and ministers are the highest-ranking diplomatic representatives of a foreign government. Other diplomatic titles are minister counselor, counselor, first secretary, second secretary, third secretary, and attaché. These officials are primarily located in Washington, D.C., but may have offices in other cities around the country. Diplomatic officers, their families, official staff, and servants, who are not nationals of or a permanent resident in the receiving state, are protected by unlimited immunity from arrest, detention, or prosecution with respect to any civil or criminal offense.

D. Consular Officers

- (1) Consular officers are consuls-general, deputy consuls-general, consuls, and vice consuls. They are also official representatives of foreign governments. Consular officers are required to be treated with due respect, and all appropriate steps shall be taken to prevent an attack on their person, freedom, or dignity. They are entitled to limited immunities as described below.
  - a. Immunities
    - i. Under prevailing international law and agreement, a foreign career consular officer is not liable to arrest or detention pending trial, except in the case of a grave crime (felony offense that would endanger the public safety) and pursuant to a decision by the competent judicial authority. His or her immunity from criminal jurisdiction is limited to acts performed in the exercise of consular functions and is subject to court determination.
  - b. Identification
    - i. Career consular officers can be identified by credentials issued by the State Department and by other locally issued official identification papers.
    - ii. The State Department credential bears its seal, the name of the officer, his or her title, and the signatures of State Department officials.
- (2) Families of Consular Officers
  - a. Family members of consular officers do not enjoy the same privileges and immunities with respect to the civil and criminal jurisdiction of the receiving state as do consular officers. However, they shall be accorded appropriate courtesy and respect.
- (3) Consular Premises
  - a. Consular premises, used exclusively for work of the consular post, shall not be entered without explicit permission of the head of the consular post or his or her designee or by the head of the diplomatic mission. This permission may be assumed in the case of fire or other disaster requiring prompt protective action.
- (4) Consular Archives, Documents, Records and Correspondence
  - a. The consular archives and documents are inviolable at all times and wherever they may be. The official correspondence of the consular post, which meets all correspondence relating to the consular post and its functions, is likewise inviolable.

E. Honorary Consuls

- (1) Often nationals or permanent residents of the receiving state are appointed and received as honorary consular officers to perform the functions generally performed by career consular officers. Such officers do not receive identification cards from the State Department of the type issued to career consular officers, though they may exhibit reduced-size copies of the exequatur or diplomatic note evidencing recognition by the United States Government. These individuals are not immune from arrest or detention; they are also not entitled to personal immunity from the civil and criminal jurisdiction of the receiving state, except as to official acts performed in the exercise of their consular functions. However, appropriate steps shall be provided to accord to such officers the protection required by virtue of their official position. In addition, the consular archives and documents of a consular post headed by an honorary consul are inviolable at all times and wherever they may be, provided they are kept separate from other papers and documents of a private or commercial nature relating to the other activities of an honorary consul and persons working with him or her.

14.2.2. METHODS OF HANDLING SELECTED INCIDENTS, VIOLATIONS, OR MINOR OFFENSES BY CONSULAR OFFICERS

A. Moving Traffic Violations

- (1) When a consular officer is stopped for a moving traffic violation, the enforcement member shall exercise discretion based on the nature of the violation and either issue a verbal warning or proceed with issuance of the appropriate citation. Mere issuance of a traffic citation does not constitute arrest or detention in the sense referred to above.

B. Driving While Intoxicated

- (1) The primary consideration in this type of incident shall be to see that the consular officer is not a danger to him or herself or the public. Based on a determination of the circumstances, the following options are available:
  - a. Take the consular officer to the post or a location where the consular officer may recover sufficiently to enable him or her to drive safely.
  - b. Permit the consular officer to make a telephone call to arrange for a relative or friend to come for him or her.
  - c. Call a taxi for the consular officer.
  - d. Take the consular officer home.
- (2) The official shall not be handcuffed, subjected to any sobriety test, or mistreated in any way.
  - a. At best, this is a sensitive situation. The official shall be treated with respect and courtesy. The official shall be reminded that his or her primary responsibility is to care for his or her own safety and the safety of others.

C. Offenses Involving Family Members of a Consular Officer

- (1) Family members of a consular officer cannot claim immunity. However, considerations shall be given to the special nature of this type of case. A criminal violation shall be handled, when possible, by seeking a complaint and warrant. The

individual shall be released once positive identification is made and relationship with the consular official is verified. If the relative is a juvenile, as in all juvenile cases, the subject shall be released to the parent consular officer.

D. Reporting of Incidents to Office of the Governor

- (1) If a consular officer or member of his or her family or personal staff should become involved in any actions taken by members, the member shall notify the Operations Section of all available information relative to this action. The Operations Section shall immediately furnish the Office of the Governor with all pertinent information.

14.2.3. DEATH OF FOREIGN NATIONAL

- A. Members who become aware of the death of a foreign national in the United States shall ensure that the nearest consulate of that national's country is notified of the death.

14.2.4. ARREST OF FOREIGN NATIONAL

- A. Whenever a foreign national is arrested, the arresting enforcement member shall ensure the individual is informed of his/her right to have his/her foreign consular officer notified.

- (1) If a foreign national arrestee is from one of the [56 listed mandatory reporting countries and jurisdictions](#), the arresting enforcement member shall, without delay, ensure the Operations Section is notified of the arrest, even if the foreign national objects. The arresting enforcement member shall document the foreign national's response and the notification in the member's incident report.

- (2) If a foreign national arrestee is from a country or jurisdiction other than a listed mandatory reporting country or jurisdiction, the arresting enforcement member shall offer to contact the arrestee's foreign consular officer. The foreign national may accept or decline the offer to notify. If the arrestee requests notification, the arresting enforcement member shall, without delay, ensure the Operations Section is notified of the arrest. The arresting enforcement member shall document the foreign national's response and any notification in the member's report.

- B. The Operations Section shall promptly notify the appropriate consulate or embassy of the name, address, charge, and place of detention of each foreign national arrested where notification is required or requested.

- C. Foreign consular officials have a treaty right to visit their arrested countrymen, unless the arrestee objects to such visits.

14.2.5. IDENTIFICATION PROCEDURES

- A. United States citizens are not required to carry evidence of citizenship, such as birth or naturalization certificates. Enforcement members shall not assume that an individual is not a citizen based solely upon that individual's race, ethnicity, color, culture, attire, religion, national origin, language, or limited English proficiency.

- B. Unless there is voluntary admission from an individual that he or she is not lawfully present in the United States or there is reasonable cause to believe that an individual is unlawfully present in the United States, he or she must be presumed to be a citizen.

- C. Enforcement members may make attempts to identify any person they detain, arrest, or who comes into the members' consistent with law and Official Orders. Enforcement

members shall exercise discretion and good judgment before requesting to view immigration documents.

- D. All resident aliens, and most nonresident aliens lawfully admitted to the United States, are required by federal law to have in their possession documents issued by federal immigration services. These documents detail conditions of admission.
- E. If an enforcement member is presented with foreign identification documents, that enforcement member shall do the following:
  - (1) Determine if the individual presenting the document is the person named on the document.
  - (2) Examine the documents to determine the individual's legal status.
  - (3) If there are any discrepancies in the information contained in the documents, or if the individual appears to be in violation of federal immigration law, enforcement members shall contact CBP or ICE.
- F. Most Canadian visitors who are nonresident aliens are admitted without documents. All other nonresident aliens must have documents in their possession.
- G. Enforcement members may be presented with numerous forms of identification. Individuals shall not be subject to a higher level of suspicion based solely on the type of identification he or she provides. All forms of identification are subject to reasonable scrutiny and authentication. Forms of identification may include:
  - (1) Driver's licenses from any U.S. state, territory or foreign country.
  - (2) Government-issued identifications from any U.S. or foreign jurisdiction, including city or municipal identifications.
  - (3) U.S. or foreign passports or passport cards.
  - (4) Consular identification cards.
  - (5) Refugee verification packets.
  - (6) U.S. armed services identification card with photo.
  - (7) U.S. B I/B2 visa border crossing card.
  - (8) U.S. certificate of citizenship or naturalization with photo.
  - (9) U.S. Department of Homeland Security issued identifications (which includes, but is not limited to I-327, Permit to Re-Enter).
  - (10) I-551 Permanent Resident card (including I-551s that do not have an expiration date).
  - (11) I-571, Refugee Travel Document.
  - (12) I-766, Employment Authorization Document.
  - (13) I-94, Arrival/Departure Record.
  - (14) I-220B, Order of Supervision.

(15) Verification ID letter from the Department of Social and Health Services Children's Administration for foster youth.

- H. An individual in an illegal status may present a false or altered card or document, or an authentic one belonging to someone else. This is a violation of 8 U.S.C. 1324c, which is punishable as a felony. Enforcement members may detain and arrest individuals for this type of violation.

#### 14.2.6. INVESTIGATIONS INTO FEDERAL IMMIGRATION VIOLATIONS

- A. Although enforcement members may enforce violations of federal laws and regulations, only federal officers may enforce civil violations under the Immigration and Nationality Act, [8 U.S.C. 1101 et seq.](#)
- B. Enforcement members shall not stop and question, arrest, or detain anyone suspected of violating federal immigration law solely on the grounds of his or her immigration status, alienage, or individual personal characteristics that lead the member to question immigration status or alienage.
- C. Enforcement members shall exercise discretion and good judgment before asking an individual about his or her immigration status.
- D. Where enforcement members properly locate a subject believed to be illegally in the United States, he or she shall not be arrested or detained solely on this information. Apparent violations of the federal immigration laws shall be referred to the nearest office of U.S. Customs and Border Protection (CBP) or Immigration and Customs Enforcement (ICE). During non-business hours, the CBP Detroit Sector Headquarters Command Station (1-800-537-XXXX) or the Law Enforcement Support Center (LESC) administered by ICE (1-802-872-XXXX) should be contacted.
- E. Enforcement members are authorized to arrest and detain an individual if all of the following conditions exist and only after confirmation of the individual's status is obtained from CBP or ICE.
- (1) The individual is an alien illegally present in the United States;
  - (2) The individual has previously been convicted of a felony in the United States; and
  - (3) The individual was deported or left the United States after the conviction.
- F. The individual may be detained only for such period of time as may be required for CBP and ICE to take the individual into federal custody for purposes of deporting or removing him or her from the United States.
- G. When enforcement members are lawfully detaining an individual and he or she is suspected of being in the country illegally, CBP or ICE shall be immediately notified.
- (1) CBP or ICE may arrange to have an officer interview the individual in custody.
  - (2) Only CBP or ICE may place an immigration hold on the individual for a violation of federal immigration laws.
- H. If an enforcement member encounters an individual suspected of being in the country illegally and no other offense is committed, the enforcement member shall complete an incident report detailing the encounter. The enforcement member shall list the individual

as a suspect only and include the individual's name, date of birth, address, and physical description. The enforcement member shall not complete an arrest report or document the individual as an arrest on the member's daily report.

#### 14.2.7. VICTIMS AND WITNESSES

- A. Crime victims should be encouraged to report crimes, and witnesses should be encouraged to cooperate with investigations. Enforcement members shall take this into consideration when investigating crimes where potential non-citizens are victims or witnesses.
- B. Members may advise victims or witnesses of crimes that they may qualify for immigration relief (e.g., a U, S, or T visa) if they are a victim or material witness to certain serious offenses.

#### 14.2.8. INTERACTIONS WITH PERSONS WITH LIMITED ENGLISH PROFICIENCY

- A. When necessary to ensure effective communication with persons who are limited English proficient, members shall contact an interpreter who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, for assistance.
- B. Members may utilize locally available language and interpretation services to assist with effective communications. If local interpretation services are not readily available, members shall utilize the department's contracted language services provider. This service may be accessed through Operations or a Regional Communications Center.

#### 14.2.9. CONTACTING FEDERAL IMMIGRATION OFFICERS

- A. To check on information concerning investigations into federal immigration violations, the CPB and ICE may be contacted at the following telephone numbers:

CBP Detroit Sector Headquarters Command Center:  
1-800-537-XXXX or 586-239-XXXX.

\* Primary contact during non-business hours

##### CBP Local Stations

<u>Detroit</u>	313-926-XXXX
<u>Marysville</u>	810-989-XXXX
<u>Sault Ste Marie</u>	906-632-XXXX
<u>Grand Rapids</u>	616-235-XXXX
<u>Gibraltar</u>	734-676-XXXX

## ICE Local Offices:

Immigration and Customs Enforcement  
 Special Agent in Charge  
 477 Michigan Avenue  
 Suite 1850  
 Detroit, MI 48226  
 Phone: 313-226-XXXX  
 Fax: 313-226-XXXX

Detroit  
 Field Operations 313-496-XXXX  
 Ambassador Bridge 313-226-XXXX  
 Detroit Metro Airport 734-941-XXXX

Port Huron 810-985-XXXX

Sault Ste. Marie 906-632-XXXX

**14.3 ALIEN IDENTIFICATION DOCUMENTS [click here](#)**

**14.4 EXTRADITION**

14.4.1. PROCEDURE

A. Extradition Request Procedure

- (1) The prosecuting attorney of the county where the crime was committed shall apply to the Governor of Michigan for a Governor's requisition.

B. Return of Subject to Michigan

- (1) When it is necessary for the department to become involved in an extradition, the request shall be forwarded to the district commander. The following information shall be included in all requests:
- a. Incident number and file class.
  - b. Name and age of person to be extradited.
  - c. Where subject is held.
  - d. Whether the subject has waived extradition or is being returned on a Governor's Warrant.
  - e. Name of enforcement members participating in the extradition.
  - f. Name and department of other officer(s) involved.
  - g. All costs; e.g., travel, lodging, meals; shall be paid by the county, authority of the sheriff and/or prosecuting attorney.
  - h. Means of travel.
  - i. Date and time of departure.

- j. Estimated time of return.
  - k. Reason enforcement member is involved.
- (2) One enforcement member, normally the investigator, may be assigned in extraditions. An attempt shall be made to have the county fulfill its obligation by assigning an officer to accompany the enforcement member.
  - (3) A second enforcement member may also be assigned if the local law enforcement agency refuses to send an officer. Requests to assign more than one enforcement member for extradition shall be accompanied by an explanation of why the duty cannot be shared by the county.
  - (4) At least one of the enforcement members shall be the same sex as the subject.
  - (5) Extradition expenses are the responsibility and obligation of the county where the crime was committed. Normally the administrator is either the sheriff or prosecuting attorney of the county. The sheriff is responsible for handling extraditions.
    - a. If a department vehicle or airplane is used, mileage or aircraft hourly costs shall be charged to the county. The Budget and Financial Services Division shall be contacted to determine the mileage rate to be charged. Extraditions using MSP aircraft shall contact the Aviation Unit for hourly aircraft rates and pilot costs.
    - b. When extradition involves a short trip from border posts across the state line and only department enforcement members are involved, it may not be necessary to charge the county, because enforcement members can pick up the subject and return without incurring unusual expenses. Approval of the affected district or division commander shall be obtained prior to executing extradition proceedings. See Official Order No. 1, Article 3, Section 3.13a.
  - (6) The ADM-048, Out-of-State Travel Advance Request, may be completed and approved by the supervisor prior to the trip.
  - (7) Time accounting for enforcement members on extradition is covered in Official Order No. 47.

#### 14.4.2. TRANSPORTATION VIA COMMERCIAL CARRIER

##### A. Air Travel by Commercial Air Carrier

- (1) If extradition involves transporting prisoners on a commercial airline, enforcement members shall check with the airline prior to booking to determine their current policy affecting transportation of prisoners. Enforcement members shall also familiarize themselves with applicable federal regulations on [carriage of weapons](#) and [transportation of prisoners](#). More detailed information regarding Federal Aviation Administration (FAA) rules and regulations on "Flying While Armed" are covered in Official Order No. 71. In the event of boarding denial, contact the airport Transportation Security Administration or the FAA for assistance.

##### B. Public Conveyances Other Than Commercial Air Carriers

- (1) In cases involving extradition on a public conveyance other than a commercial airline, the enforcement member shall check with the transporting authority to determine their current policy affecting transportation of prisoners.

- (2) Whenever possible, the enforcement member shall arrange with the transporting authority for early arrival and boarding of the conveyance in advance of other passengers.
- (3) The enforcement member and prisoner shall be seated in the most inconspicuous available location of the conveyance.
- (4) If the transporting authority permits, a prisoner shall be handcuffed in front.

#### **14.5 SEARCHES, HANDCUFFING, TRANSPORTING, AND SECURING PRISONERS**

- A. This section provides instruction for conducting inventory searches and searching arrested subjects. It also contains general policy regarding handcuffing, transporting, and securing prisoners. For information concerning specific cases, members may refer to search and seizure and arrest laws.

##### **14.5.1. SEARCHING**

###### **A. Inventory Searches**

- (1) Vehicles shall be inventoried as required by Official Order No. 48.
- (2) Abandoned Property
  - a. For purposes of this section, the term abandoned property shall refer to:
    - i. Property whose owner cannot be identified, and
    - ii. Property that an enforcement member determines necessary to take into custody.
  - b. All property deemed abandoned shall be inventoried, including boxes, backpacks, bags, or other closed containers. Members shall document the inventory in their incident report and shall specifically list valuable items or items of an unusual nature.
- (3) Property Held for Safekeeping
  - a. For the purposes of this section, property held for safekeeping shall include:
    - i. Property that an enforcement member deems necessary to take custody of in order to safeguard, and
    - ii. The owner is known or reasonably expected to be identified but the owner is either not present or is present but unable to communicate his or her desire regarding disposition of the property.
  - b. Property to be held for safekeeping shall be inventoried including boxes, backpacks, bags, or other closed containers. Members shall document the inventory in their incident report and shall specifically list valuable items or items of an unusual nature.

## B. Search on Arrest

- (1) [MCL 764.25](#) mandates that any person making an arrest shall take from the person arrested all offensive weapons or incriminating articles that the person may have about his or her person.
  - a. Members shall exercise discretion in searching a person of the opposite sex. If possible, a member of the same sex as the person being searched shall conduct the search. If it appears that delaying a search would endanger the enforcement member, an immediate search shall be made.
  - b. Prisoners shall be handcuffed before searching.
- (2) The United States and Michigan courts have interpreted their respective Constitutions to require the government to obtain a search warrant before conducting a search. The courts have also recognized that as a matter of public policy there must be exceptions to this so-called "search warrant rule." One of the judicially recognized exceptions is the "Search Subsequent to Arrest" exception.
  - a. When using this exception, an enforcement member must show that the following four elements are present.
    - i. First, it must be shown there was a lawful custodial arrest;
    - ii. Second, that the search was conducted for offensive weapons and/or evidence;
    - iii. Third, that the search was contemporaneous with the arrest;
    - iv. Fourth, the area of the search was within the control of the arrested person at the time of the arrest.
- (3) While a non-custodial arrest standing by itself does not provide the basis for a search by using either the statute or the search subsequent to an arrest exception, other exceptions to the search warrant rule can sometimes be used. Most notably, the "Stop and Frisk" and "Probable Cause Plus Exigent Circumstances" exceptions are often applicable.
  - a. The "Stop and Frisk" exception requires that an enforcement member prove there is a reasonable suspicion that a crime has been or is being committed and that the suspect is potentially dangerous (armed).
  - b. To use the "Probable Cause Plus Exigent Circumstances" exception, the enforcement member shall be able to adequately justify probable cause to conduct a search in such a manner that will later satisfy a neutral detached magistrate that the item searched for was in the place searched, and that exigent circumstances existed which would allow destruction or loss of evidence.

## C. Strip Search

- (1) [MCL 764.25a](#) prohibits a strip search of a person arrested or detained for a misdemeanor offense or civil infraction unless all of the following conditions are met:
  - a. The arrested person is being lodged in a detention facility by order of a court or there is reasonable cause to believe the arrested person is concealing a weapon, controlled substance, or evidence of a crime.

- b. The person conducting the strip search and a law enforcement officer assisting are the same sex as the person being searched.
  - c. The search is performed in a place which prevents the search from being observed by persons not involved in the search.
  - d. Written authorization has been given prior to conducting the strip search by the Director or designee. The enforcement member in charge of the work site at the time the strip search is conducted is the Director's designee for purposes of granting written authorization.
- (2) The arresting enforcement member shall report the search on the Report of Strip or Body Cavity Search, UD-058. A copy of the completed UD-058 shall be given to the person searched.

D. Body Cavity Search

- (1) [MCL 764.25b](#) prohibits a body cavity search of a person unless all of the following conditions exist:
- a. A valid search warrant has been obtained, and
  - b. The search is conducted by a medical person, and
  - c. A person of the same sex as the person being searched is present, if the medical person conducting the search is of the opposite sex of the person being searched.
- (2) The enforcement member executing the warrant shall report the search on the Report of Strip or Body Cavity Search, UD-058. A copy of the completed UD-058 and the search warrant shall be given to the person searched.

14.5.2. HANDCUFFING

- A. Enforcement members shall use sound discretion when deciding whether to handcuff individuals who are not under arrest at the scene of an investigation.
- B. Enforcement members may stop and frisk a subject when they are able to articulate a reasonable suspicion that the person may be involved in a crime and may be potentially dangerous. The courts have extended this authority to the limited use of handcuffs to control a subject if the enforcement member can articulate a sufficient and reasonable concern for his or her safety that would justify such an intrusion. The courts will look at whether the situation might give rise to "sudden violence and the need to minimize the risk of harm to both police and citizens."
- (1) Enforcement members should use the following factors to determine if the use of handcuffs is justified during a non-arrest encounter with a subject:
- a. Does the subject's behavior give rise to the reasonable possibility of danger to the enforcement member or flight?
  - b. Does the enforcement member have information that the subject is currently armed?
  - c. Did the stop closely follow a violent crime?

- d. Does the enforcement member have specific information that a crime potentially involving violence is about to occur?
  - e. How many enforcement members and/or subjects are present?
- (2) Although this list should not be considered complete, it does include the most recognized reasons for handcuffing in a non-arrest situation. However, handcuffing merely to show consistency or because the incident occurred in a “dangerous area” are not sufficient reasons to justify the use of handcuffs in a non-arrest situation.
- (3) Enforcement members shall document situations in which a subject is placed in handcuffs but not placed under arrest. The following information shall be recorded: last name, first name, middle initial, race/sex, date of birth, and reason(s) for the use of handcuffs.
- C. Arrested persons taken into physical custody shall be handcuffed.
- D. Prisoners being transported shall be handcuffed. See Section 14.5.3.
- E. Circumstances surrounding initial contact with the prisoner (e.g., an arrest made on the road, transporting a prisoner from a place of incarceration to and/or from court appearances) may require different handcuffing methods.
- (1) Prisoners should be handcuffed with their hands behind them. If a prisoner is handcuffed in front, Flex-Cuffs should be used to hold the prisoner's hands close to the belt.
  - (2) Care shall be taken that the handcuffs are not applied too tightly to the prisoner's wrists.
  - (3) The handcuffs shall be double-locked.
  - (4) Nothing in this Order shall preclude an enforcement member from handcuffing individuals in an alternative manner if, in the enforcement member's best judgment, it is deemed necessary. Alternative handcuffing techniques may involve use of the issued Welsh Hitch, Flex-Cuffs, and/or Tuff-Ties.
  - (5) The practice commonly referred to as “hog tying” a prisoner is prohibited. In this context, “hog tying” refers to the practice of restraining a resistive suspect's hands and ankles and securing them together behind the suspect's back while placing the prisoner in a prone position. A modified technique of restraining the hands to the ankles behind the back, utilizing a sufficient length of the Welsh Hitch to allow the prisoner to be placed in a seated position, is acceptable. Prisoners, once secured, should be placed in an upright position to avoid positional asphyxia. See Section 14.5.3.A.(8).
- F. Enforcement members shall document in their incident report the manner in which the individual was handcuffed, the name of member that applied the handcuffs, that the handcuff tension was checked, and the handcuffs were double-locked.
- G. If an individual complains that handcuffs are too tight, enforcement members should, at the earliest opportunity that it can be done safely, re-check the handcuffs once to ensure the handcuffs are double-locked and not applied too tightly. Any complaints from an individual regarding handcuffs being too tight and the steps taken to ensure the handcuffs are double-locked and sufficiently adjusted, or complaint of any injury or actual injury sustained from the application of handcuffs, shall be documented in an incident report.

### 14.5.3. TRANSPORTING

- A. Prisoners shall be handcuffed and secured so that they cannot escape, cause an accident, or harm the enforcement member in any way while being transported. Whenever possible, prisoners should be transported in an upright position and be closely monitored during transport. See Section 14.5.3.B.(11) for information on positional asphyxia.
- (1) Seatbelts and the seatbelt auto locking retractor shall be used to further secure and provide safety for the prisoner during transport.
- B. Motor Vehicle Transportation
- (1) The prisoner shall be handcuffed and searched according to this Order.
  - (2) At the beginning of each shift, enforcement members shall ensure the patrol vehicle is equipped with at least one seatbelt lock cover. If the seatbelt lock cover is missing from the patrol car the enforcement member shall immediately notify a supervisor and note on their daily until replaced. If a shift supervisor is not immediately available, an email may be used for notification purposes.
  - (3) Whenever a prisoner is placed in a patrol vehicle equipped with a seatbelt lock cover, the prisoner shall be secured by using the seatbelt auto locking retractor and the seatbelt lock cover. If there is not a seatbelt lock cover, the prisoner shall be secured by using the seatbelt auto locking retractor. In both circumstances, the enforcement member shall make every attempt to maintain visual observation of the prisoner to ensure he or she does not disengage the seatbelt.
  - (4) One Enforcement Member and One Prisoner
    - a. When the prisoner's hands are handcuffed in back, the enforcement member shall place the prisoner in the front seat and use the seat belt and seatbelt auto locking retractor to further secure the individual during transportation.
    - b. When a prisoner whose hands have been handcuffed in front must be transported, the enforcement member shall place the prisoner in the front seat. If the prisoner is wearing a belt, a "Flex-Cuff" or similar device shall be secured around the belt to further secure the individual by limiting the use of their hands. If the prisoner is not wearing a belt, the seat belt shall be placed across the connecting links of the handcuffs to secure the individual.
    - c. When transporting a prisoner in the front seat, the enforcement member should consider securing the heavy weapon in a different location, such as the trunk.
  - (5) One Enforcement Member and Two Prisoners
    - a. One enforcement member shall not attempt to transport two prisoners unless assistance is unavailable and the member reasonably believes the transport may be completed safely.
      - i. The enforcement member shall take into account the circumstances of the arrest, the crime involved, and the character of the prisoners being transported, when determining whether the transport may be completed safely.
    - b. When one enforcement member transports two prisoners, one prisoner shall be placed in the front seat and the other in the right rear seat. Seat belts, seat belt

lock covers, and seat belt automatic locking retractors shall be used to further secure the prisoners.

- (6) One Enforcement Member and More Than Two Prisoners
  - a. In vehicles other than those specially equipped for transporting several prisoners, one enforcement member shall not attempt to transport more than two prisoners.
- (7) Two Enforcement Members and One Prisoner
  - a. When two enforcement members transport one prisoner, one enforcement member shall sit in the rear seat with the prisoner. The enforcement member shall sit behind the driver. Enforcement members should be aware, in most cases, that the service weapon is exposed and next to the prisoner. The prisoner shall be secured as indicated above.
- (8) Two Enforcement Members and Two Prisoners
  - a. When two enforcement members transport two prisoners, one of the enforcement members shall sit behind the driver, one prisoner in the front right passenger seat and the second prisoner seated in the right rear passenger seat.
- (9) Two Enforcement Members and Three or More Prisoners
  - a. Two enforcement members may be able to transport three prisoners. However, consideration shall first be given to the circumstances of the arrest, the crime involved and the character of the prisoners. When transporting three prisoners, one prisoner shall be positioned in the front seat and two in the rear seat, secured as indicated above. The second enforcement member shall be seated behind the driver.
  - b. Two enforcement members shall never attempt to transport more than three prisoners. If more than three prisoners need to be transported, assistance from other troopers or local police agencies shall be obtained.
- (10) Male Enforcement Member and Female Prisoner
  - a. When it is necessary for a male enforcement member to transport a female prisoner or a female enforcement member to transport a male prisoner, the transporting enforcement member shall advise by radio the time of departure with the prisoner along with the odometer reading. At the destination, the enforcement member shall again advise the time and odometer reading. The enforcement member shall relay the required information at the beginning and end of the transport to the Regional Communication Center associated with his or her assigned district.
- (11) Positional Asphyxia
  - a. Positional asphyxia can be defined as asphyxiation resulting from the position in which one is placed (i.e., lying face down with one's hands behind one's back) making breathing difficult.
  - b. When securing and transporting violent and/or resistant subjects, be aware of "positional asphyxia." Positional asphyxia may be responsible for some in-custody deaths while transporting prisoners. At risk are prisoners who are under the influence of drugs or alcohol, are obese, and who are reacting violently to the

enforcement members. When secured with alternative methods and placed in a face down position, these subjects can become very quiet and subsequently stop breathing.

- c. Whenever possible, prisoners should be transported in the upright position.
- d. If they are being transported in an alternative position and/or have been sprayed with OC/CS chemical, the prisoners shall be closely monitored for "positional asphyxia" during transport.

(12) In the event an arrest situation should deteriorate to the point that the subject insists on spitting on enforcement members, it is permissible to cover the subject's mouth with the surgical mask provided in the first aid kits within the patrol vehicle. Under no circumstances shall members place tape or a similar airtight covering over a person's mouth.

C. Commercial Air Carrier and Other Public Transportation

- (1) See Section 14.4.2.

14.5.4. PRISONER SECURITY

A. Prisoners shall be searched and handcuffed. Handcuffs shall be double locked.

- (1) CAUTION: Handcuffs are a temporary restraining device that can be defeated if the prisoner is not closely observed.

B. The arresting enforcement member is responsible for the security of their prisoners detained at the post unless relieved of such responsibility by the shift supervisor.

C. Where possible, prisoners shall not be detained near post exits or in areas accessible to the public.

14.5.5. PRISONER LOCKUPS

A. A facility that contains holding cells, cell blocks, or other secure enclosures that are:

- (1) Under the control of the department; and
- (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.
- (3) Are subject to Prison Rape Elimination Act (PREA) requirements as described in Official Order No. 64.

B. The prisoner lockup shall provide a secure location to temporarily detain persons while the arresting enforcement member completes necessary paperwork and other business related to the arrest, or when an emergency situation occurs requiring an immediate response by the arresting enforcement member. A prisoner lockup shall not be used as a substitute for the statutory place of confinement.

C. Persons being detained in a prisoner lockup shall be searched according to this Order.

D. Belts, shoelaces, ties, lighters, matches, and any other items which could cause personal harm shall be taken from the individual before he or she is placed in a prisoner lockup.

- E. When a person is placed in a prisoner lockup, the arresting enforcement member detaining the individual shall immediately notify the shift supervisor.
- F. The prisoner lockup door shall be closed and locked when the room is being used to detain persons in custody.
- G. Prisoner lockup lights shall be turned on when the room is being used to detain persons in custody.
- H. Unrelated persons of the opposite sex shall not be detained at the same time in a prisoner lockup nor shall juveniles be commingled with adults in a prisoner lockup.

#### 14.5.6. PRISONER HOLDING AREAS

- A. If a prisoner lockup is not available, a prisoner holding area may be established in a department facility with prior written authorization from the district/division commander when a need has been demonstrated.
  - (1) Such areas shall only be located on floors with two separate means of evacuation.
  - (2) The area shall have at least one retaining bar or ring installed.
  - (3) Window openings shall have security bars or screens constructed of substantial material to discourage any escape attempt.
  - (4) The area shall be constructed in a manner to permit prisoners to be viewed from outside.
  - (5) Furnishings in the area shall be secured to the floor or walls.
  - (6) The holding area shall be equipped with an open intercom to enable the desk enforcement member to monitor audio activity, and this room shall be posted with an "Open Intercom Area" sign.
  - (7) An A.C. power-operated fire-smoke alarm approved by Underwriters Laboratory shall be installed in each prisoner holding area.
- B. Belts, shoelaces, ties, lighters, matches, and any other items which could cause personal harm shall be taken from the individual before he or she is placed in a prisoner holding area.
- C. When a person is placed in a prisoner holding area, the arresting enforcement member detaining the individual shall immediately notify the shift supervisor.
- D. Prisoner holding area lights shall be turned on when the room is being used to detain persons in custody.
- E. Unrelated persons of the opposite sex shall not be detained at the same time in a prisoner holding area unless they can be secured separately and far enough apart as to not have physical contact with each other. Juveniles shall not be commingled with adults in a prisoner holding area.

**14.5.7. PROTECTIVE CUSTODY**

- A. A person who is taken into protective custody, such as an incapacitated or mentally ill person, shall be searched and transported according to the procedures in this Order.

**14.5.8. NOTIFICATION RESPONSIBILITIES FOR PRISONER TRANSPORTS**

- A. When an inter-district prisoner pickup is being made:
  - (1) The post calling for the prisoner shall notify their district headquarters (via the regional dispatch) and Operations Section of the enforcement member's name, the vehicle number, the name of the prisoner to be picked up, and the type of warrant.
  - (2) Enforcement members with prisoners shall maintain radio contact with their home regional dispatch for the duration of the prisoner transport.
  - (3) The home post shall monitor the location of the enforcement member.
  - (4) If a communication failure occurs with the enforcement member, the regional dispatch shall notify the home post and the Operations Section.
  - (5) When the enforcement member completes the prisoner pickup, the Operations Section and the regional dispatch shall be notified.

**14.6 REVISION RESPONSIBILITY**

Responsibility for continuous review and revision of this Order lies with the Field Operations Bureau, and Intelligence and Technology Bureau (Criminal Justice Information Center), in cooperation with the Office of Professional Development (Training Division).

DIRECTOR