

# EAST LANSING POLICE DEPARTMENT

## POLICY AND PROCEDURE

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### CHIEF OF POLICE \_\_\_\_\_

#### 2.1 PURPOSE

The purpose of this policy is to provide police officers with basic guidelines for conducting arrests.

#### 2.2 POLICY

It is the policy of the East Lansing Police Department that all arrests made by officers shall be conducted professionally and in accordance with established legal principles. This policy sets forth the fundamentals of the arrest procedure.

#### 2.3 DEFINITIONS

**Arrest.** The taking, seizing, or detaining of a person by any act which indicates an intention to take him/her into custody and subjects the person arrested to the actual control of the person making the arrest, and must be so understood by the person arrested.

**Arrest warrant.** A written order issued by a judge, magistrate, or other proper authority that commands a law enforcement officer to place a person under arrest.

**Probable cause for arrest.** When facts and circumstances within an officers knowledge are sufficient to warrant a prudent person in believing that the suspect has committed, is committing, or is about to commit an offense.

#### 2.4 BASIS FOR ARREST

Officers shall conduct arrests based upon one of the following:

- A. Probable cause
- B. An arrest warrant

#### 2.5 ELEMENTS OF ARREST

##### A. Authority

The person making the arrest must have the authority to arrest and must be acting within the scope of that authority. Sworn police officers of the East Lansing Police Department are vested with the authority to arrest.

##### B. Intent

Officers must have the intent to arrest. The arresting officers shall identify themselves, inform the suspect of his or her arrest, and specify the charges for which the arrest is being made. Officers not in uniform shall display their badge

and credentials when making the arrest to ensure proper identification.

- C. Force  
Some amount of verbal or physical force must be used, but officers shall use only that level of force that they reasonably believe is necessary to make an arrest in accordance with this department's use of force policy.
- D. Custody  
Verbal or physical custody or control must be exercised by the arresting officer.
- E. Submission  
The person being arrested must submit to the arrest, either voluntarily or forced. Submission is present when custody or control is gained.

## 2.6 ARRESTS WITHOUT A WARRANT

Police officers, without a warrant, may arrest a person in any of the following situations:

- A. Any felony, misdemeanor, or ordinance violation committed in the officer's presence.
- B. A felony that was not committed in the officer's presence, however the officer has probable cause to believe a felony was committed and probable cause to believe the person committed it.
- C. When the officer receives positive information from an authoritative source that another officer or court holds a warrant for the person's arrest.
- D. The officer receives positive information by broadcast from a recognized police or other governmental radio station that affords the peace officer probable cause to believe a misdemeanor punishable by imprisonment for more than 92 days or a felony has been committed and reasonable cause to believe the person committed it.
- E. When the officer has probable cause to believe that a person is an escaped convict, a parole violator, or probation violator, or has violated a condition of pardon granted by the executive.
- F. An officer may make an arrest in accordance with this department's Domestic Violence policy.
- G. An officer has probable cause to believe that a person, at the time of an accident, was operating a vehicle upon a public highway or a place open to the general public, including an area designated for the parking of vehicles, while under the influence of intoxicating liquor or a controlled substance.
- H. An officer has probable cause to believe that a person, at the time of an accident, was the driver of a snowmobile or ORV while under the influence of intoxicating liquor or a controlled substance.
- I. The officer has probable cause to believe a violation of the retail fraud section of MCL 750.356(c) or 750.356(d) has taken or is taking place, and probable cause to believe that person committed or is committing the violation, regardless if it

was committed in the officer's presence.

- J. The officer has probable cause to believe that a violation of a Personal Protection Order (PPO) has been committed, in accordance with this department's Domestic Violence policy.
- K. The officer, after taking all factors into consideration, may use his/her discretion in determining whether or not to place a subject under arrest. Factors to be considered include, but are not limited to, officer safety, safety of the public, department staffing, and departmental policy.

## 2.7 ARREST WARRANT REQUIRED

An arrest warrant must be obtained prior to arresting in the following circumstances:

- A: On probable cause for a misdemeanor when a suspect flees from outside a dwelling to inside.
- B: In order to make forcible entry for the purpose of making a felony arrest, without exigent circumstances, into a defendant's dwelling. Officers must have reason to believe the defendant is inside the dwelling.
- C: In order to make forcible entry for the purpose of making any arrest, without exigent circumstances, into a third party's home.

## 2.8 ARRESTS OUTSIDE OF JURISDICTION

Officers are authorized to make arrests outside of their jurisdiction in accordance with this department's Authority Outside of Jurisdiction policy.

### ARREST PROCEDURES

#### A. Handcuffing

All arrested persons shall be handcuffed after being taken into custody. Subjects shall be handcuffed with their hands behind their back unless the officer determines that physical limitations require handcuffing in the front. Handcuffs will be checked for tightness by the officer, and double locked. Other lawful forms of restraint may be used when necessary and reasonably available for the safety of officers, prisoners, and others.

#### B. Search Incident to Arrest

Officers shall conduct a thorough search of the person arrested. Any criminal evidence discovered during the search of the arrestee's person shall be seized and preserved in accordance with departmental procedures. The search incident to arrest shall include the arrestee and areas within the reach and control of the arrestee.

#### C. Arrestee Requests

Following the arrest, officers shall not normally permit arrestees to leave the immediate area of the arrest for personal purposes. In exceptional cases where it is deemed necessary to grant the arrestee's request, the arrestee shall first be searched and then be accompanied and closely monitored by the officer.

D. Transporting

All arrestees shall be searched before being transported. All arrestees shall be handcuffed or otherwise restrained during transportation. All arrestees shall be restrained with the safety belt unless it is unsafe for the officer and / or arrestee.

Before 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 officers. Security screens shall be closed and in locked position during arrestee transport.

E. Proof of Identification

1. When an individual is arrested without positive identification, all reasonable efforts shall be made to try and positively identify the person prior to arraignment. Individuals without positive identification shall not be released from custody, without the approval of the on duty supervisor.
2. The arresting officer shall fill out an "Additional Bond Request" form on individuals that do not have positive identification. The bond form will be given to the court officer when the person is to be arraigned. The bond form will alert the court officer and the arraigning judge that the person has not been positively identified.
3. After the person has been arraigned, the court papers should state that the individual must produce positive identification, prior to being released. We can continue to lodge the person after the arraignment, until the person has been positively identified. If you have any questions on releasing a prisoner, contact the on duty supervisor.

2.10 INTERIM BOND

- A. An individual arrested with or without a warrant for a misdemeanor offense, may be released on interim bond, if allowed by State or Federal statute. An individual may be released on interim bond in the following manner, when applicable.
1. Personal recognizance.
  2. A cash bond which includes payment by cash, credit card, money order, or cashier check. The only credit cards accepted are MasterCard and Visa. Personal checks shall not be accepted as bond.
- B. The jail service officer will process credit card transactions through the designated web site. When a jail service officer is not working, the on duty uniform division supervisor or the jail supervisor will process the credit card transaction. When posting bond with a credit card, the defendant shall provide positive identification and have the credit card in their own name.

- C. If the defendant does not have a credit card in their name, they may have a friend or relative post bond with a credit card. The friend or relative shall appear in person at the Police Department. The friend or relative shall provide positive identification and have the credit card in their own name.
- D. When the interim bond is posted by the defendant, the defendant shall sign the bond form on the line that states "Signature of Defendant".
- E. When the interim bond is posted by a "third party" such as a friend or relative then the third party's name, address, and phone number shall be listed on the bond form. The third party will be requested to sign the bond form on the line that states "Signature of Third Party Posting Bond". (The defendant shall also sign the form when they are released).
- F. Any financial transaction between the defendant and a third party is outside the jurisdiction of the Police Department and is strictly a civil matter.
- G. When the defendant has been arraigned and a bail bond has been set by a judge, the defendant may have a friend or relative provide the bail bond money. If a third party is posting cash for the defendant's bail bond, the bond receipt form shall be written in the name of the third party. Bail bonds are handled differently than interim bonds, with respect to third parties posting the bond.
- H. Individuals arrested for domestic assault under MCL 764.15a , MCL 750.81, or MCL 750.81a shall be held and shall not be released, until they can be arraigned or have interim bond set by a judge or district court magistrate. The authority to hold the defendant without bond is per MCL 780.582a.
- I. Individuals arrested for a violation of a Personal Protection Order under MCL 764.15b shall be held and shall not be released. The individual shall be brought before the family division of the circuit court having jurisdiction in the cause within 24 hours after arrest, to answer to a charge of contempt for violating the personal protection order. The authority to hold the defendant without bond is per MCL 780.582a.
- J. It is strongly recommended we obtain a cash bond whenever possible for individuals who are arrested. A personal recognizance bond should only be used when necessary, as determined by the on duty supervisor.
  - 1. A cash bond in the amount of \$200.00 is the recommended standard for City ordinance misdemeanor offenses that are 90 day misdemeanors with a maximum \$500.00 fine, and for misdemeanor offenses that exceed 92 days. A list of offenses will be posted in the jail.
  - 2. A cash bond in the amount of \$100.00 is the recommended standard for misdemeanor offenses that are 90 day misdemeanors with a maximum \$100.00 fine. Examples would be misdemeanor traffic violations.
- K. A request for a cash bond shall be approved by a supervisor. The bond may be set higher or lower at the discretion of the on duty supervisor. Bonds set higher

than the recommended standard shall be accompanied by a completed "bond request form". When a cash bond is posted, the "actual" dollar amount of the cash being taken for the bond shall be listed on the interim bond receipt form. The dollar amount of cash documented on the interim bond receipt form must match the "actual" amount of cash that is placed in the bond envelope.

- L. Individuals who are arrested shall be held until they are in a proper condition to be released, or until the next session of court as authorized under MCL 780.581, if in the opinion of the arresting officer any of the following conditions exists.
  - 1. The person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance.
  - 2. The person is wanted by another police agency to answer to another charge.
  - 3. The person is unable to establish or demonstrate their identity.
  - 4. It is unsafe to release the person.
- M. The arrested individual shall be allowed an opportunity to post bond, unless their release is prohibited by statute. The bond money, interim bond receipt, and the bond request form if applicable, shall be placed in the Lockup Facility bond box and shall be forwarded to the 54-B District Court on the next business day.
- N. If the blood alcohol level of the arrested individual is not known, they shall be held for a minimum detention time of eight hours. After eight hours the individual shall be offered a PBT. If they refuse the PBT, it is recommended they be held an additional four hours. At the end of twelve hours, the individual shall be offered another PBT.

If they still refuse the PBT they shall be released, if it appears the individual is not intoxicated and they are in a condition to be safely released. The JSO shall contact the on duty supervisor if they have any questions about releasing an individual.
- O. Individuals who have been arrested shall be taken to the East Lansing Lockup Facility to be processed. If the person is waiting for bond money to be brought to the Department, they shall be lodged in the Lockup Facility. The individual shall not be allowed to wait anywhere outside the Lockup Facility holding area for bond money, unless it is authorized by a supervisor.

2.11 MOTOR VEHICLE CODE TRAFFIC CITATIONS ISSUED TO OUT OF STATE RESIDENTS

A. Misdemeanor Violations

When an individual who is not a resident of this state is arrested without a

warrant for a misdemeanor traffic violation of the Motor Vehicle Code, or is issued a traffic citation for a misdemeanor violation of the Motor Vehicle Code, the individual is required to do one of the following.

1. The person stopped may demand to see the judge. If a judge is available for an immediate appearance, the officer shall take the non-resident driver before the judge to answer to the misdemeanor violation.
2. Post a cash. The bond shall not exceed \$100.00 per section 257.728 (5) of the Motor Vehicle Code.
3. Post a "guaranteed appearance certificate" as bond.

**B. Civil Infraction Violations**

When an individual who is not a resident of this state is issued a traffic citation for a civil infraction violation of the Motor Vehicle Code, the individual is required to do one of the following.

1. The person stopped may demand to see the judge. If a judge is available for an immediate appearance, the officer shall take the non-resident driver before the judge to answer to the civil infraction violation.
2. Post a cash bond. The bond shall not exceed \$100.00 per section 257.749 (3).
3. Post their driver's license as bond.
4. Post a "guaranteed appearance certificate" as bond.

C. For purposes of section # 2.11, a "guaranteed appearance certificate" means a card or certificate containing a printed statement that a surety company authorized to do business in this state, guarantees the appearance of the person whose signature appears on the card or certificate, and that the company agrees to pay any fine, costs, or bond forfeiture imposed on the person in a total amount not to exceed \$200.00.

D. When the officer takes a driver's license or a "guaranteed appearance certificate" under section # 2.11, the officer shall attach it to the officer's copy of the traffic citation with a paper clip. The officer shall turn in the driver's license or the "guaranteed appearance certificate" and the traffic citation to the Records Bureau, no later than the end of their duty day.

E. When a person who is not a resident of this state is issued a traffic citation, an interim bond receipt form is not used. The officer issuing the traffic citation shall put a check mark in the applicable bond box on the traffic citation. The traffic citation serves as the bond receipt.

2.12 WEEKEND AND HOLIDAY FELONY ARRAIGNMENTS IN INGHAM COUNTY

- A. The 54-B District Court Judges, the 54-A District Court Judges, and the 55<sup>th</sup> District Court Judges will use a rotation schedule to conduct in-custody felony arraignments for “fresh arrests”. Felony arraignments will take place in the 54-A District Court in Lansing.
- B. A defendant may appear before a 54-A District Court Judge on our felony charge. This is consistent with the guidelines set by the Michigan Supreme Court. The following procedures are to be used when conducting in-custody weekend or holiday felony arraignments for “fresh arrests” in Ingham County.
- C. Individuals arrested for a felony will be processed and lodged at the East Lansing Lockup Facility, until they are transported to the Lansing Jail. Call the Lansing Jail by 0700 hours and notify them we have an individual in-custody on a felony charge.
- D. The defendant and their personal property should be transported to the Lansing Jail by 0800 hours. The defendant will be lodged at their facility, while the officer meets with the Prosecuting Attorney at the Lansing Police Department to review the case.
- E. The following paperwork is to be completed and given to the Prosecuting Attorney.
  - 1. Two copies of the police report, for each individual being charged.
  - 2. One copy of the defendant’s CCH and their Driving Record, for each individual being charged.
  - 3. One Ingham County Prosecuting Attorney Warrant Request & Disposition Form, for each individual being charged.
  - 4. One Ingham County Prosecuting Attorney Witness List. If there are additional co- defendants, then provide a copy of the Witness List, for each additional individual being charged.
  - 5. The original fingerprint card and two copies (both sides of the card), for each individual being charged.
- F. If a warrant is issued by the Prosecuting Attorney, the officer will meet with a judge or magistrate to validate the warrant. If the defendant cannot post bond, the officer will take the defendant to the Ingham County Jail to be lodged. The commitment papers are to be given to the Ingham County Jail staff.
- G. The 54-B District Court personnel will pick up the paperwork from the 54-A District Court on the next regular business day.
- H. The following paperwork is to be completed and forwarded to the East Lansing Records Bureau.

1. The officer shall do a supplemental report to the original report.
2. The officer shall obtain a copy of the complaint and warrant and attach it to the supplemental report.
3. A copy (both sides of the card) of the fingerprint card and the defendant's photograph are to be attached to the defendant's booking form.

**2.13 WEEKEND AND HOLIDAY SEARCH WARRANTS IN INGHAM COUNTY**

- A. If a search warrant is needed between 1700 hours on Friday and 0800 hours on Monday, or on a holiday, the officer should call the assigned judge on duty. The current on-call judge list will be kept at the front desk. When a search warrant for blood is needed for a misdemeanor OUIL arrest or in situations where time is of the essence, the officer should contact the on-call 54-B District Court Judge.

**2.14 WEEKEND AND HOLIDAY FELONY ARRAIGNMENTS IN CLINTON COUNTY**

- A. Clinton County does not conduct weekend and holiday arraignments for "fresh arrests". They conduct a "bond hearing" with the magistrate or a judge to set a bond for the defendant. The following procedures are to be used when a defendant is in-custody on a felony charge on a weekend or holiday. The bond hearing will take place in the 65<sup>th</sup> District Court in St. Johns.
- B. Individuals arrested for a felony will be processed and lodged at the East Lansing Lockup Facility until they are transported to the Clinton County Jail. The defendant shall be fingerprinted on the Clinton County print cards.
- C. Call the Clinton County Central Dispatch Center before 0700 hours and notify them we have an individual in-custody on a felony charge. The Clinton County on-call prosecutor will call the Clinton County Central Dispatch Center by 0700 hours to see if there is anyone in custody.
- D. Call the Clinton County Jail before 0700 hours and notify them that we have an individual in-custody on a felony charge. The Prosecuting Attorney will sometimes call the Clinton County Jail, instead of the Clinton County Central Dispatch Center.
- E. The defendant and their personal property should be transported to the Clinton County Jail by 0800 hours. The defendant will be lodged at their facility, while the officer meets with the Prosecuting Attorney at the 65<sup>th</sup> District Court to review the case.
- F. The following paperwork is to be completed and given to the Prosecuting Attorney for their review and records.
  1. Three copies of the police report, for each individual being charged.

2. One copy of the defendant's CCH and their Driving Record, for each individual being charged.
  3. One completed Clinton County Prosecutor Authorization Report, for each individual being charged. This form is also the witness list.
  4. The original fingerprint card and one copy (both sides of the card), for each individual being charged.
- G. If a warrant is issued by the Prosecuting Attorney, the officer will meet with the magistrate or judge to validate the warrant and a bond will be set. The officer will take the commitment papers back to the Clinton County Jail staff.
- H. The following paperwork is to be completed and forwarded to the East Lansing Records Bureau.
1. The officer shall do a supplemental report to the original report.
  2. The officer shall obtain a copy of the complaint and warrant and attach it to the supplemental report.
  3. A copy (both sides of the card) of the fingerprint card and the defendant's photograph are to be attached to the defendant's booking form.
  4. The Clinton County Jail will not hold anyone over 24 hours without a warrant being issued. This means that if you arrest someone early in the morning and you are not able to make the 0800 hrs deadline to complete your report and transport the defendant, then you should contact the on-call Clinton County Prosecuting Attorney for guidance.

**2.15 ELPD WARRANT ARRESTS ORIGINATING FROM CLINTON COUNTY**

- A. The defendant shall be processed at the East Lansing Jail. The defendant shall be fingerprinted on the Clinton County print cards and have a photograph taken. If the defendant is unable to post the required bond, then transport the defendant to the Clinton County Jail.
- B. The original warrant and the original print card are to be dropped off at the 65<sup>th</sup> District Court. A copy of the print card (both sides) and the defendant's photograph shall be forwarded to the Records Bureau.

**2.16 WEEKEND AND HOLIDAY SEARCH WARRANTS IN CLINTON COUNTY**

- A. If a search warrant is needed between 1700 hours on Friday and 0800 hours on Monday, or on a holiday, call the Clinton County Central Dispatch Center. They will give you a phone number for the on-call Prosecuting Attorney, or they will contact the on-call Prosecuting Attorney for you and instruct them to call you back.

**2.17 MAXIMUM DETENTION TIME FOR DEFENDANTS LODGED ON WEEKENDS OR**

HOLIDAYS WHEN ARRESTED WITHOUT A WARRANT

- A. The East Lansing Jail has been designated as a “Lockup” facility. A “Lockup” facility is defined by MCL 791.262 as “a facility that is operated by a local unit of government for the detention of persons awaiting processing, booking, court appearances, or transportation to a jail, for not to exceed 72 hours”.
- B. Even though we may lodge and hold individuals for a period not to exceed 72 hours, we are still required to attempt to arraign the defendant in a timely manner, if they are arrested without a warrant.
- C. There are several Michigan statutes which mandate that individuals arrested without a warrant, shall be taken “without unnecessary delay” before a magistrate or a judge to be arraigned. The statutes are MCL 764.13, MCL 764.26, and MCL 780.581. The language “without unnecessary delay” is not specifically defined in the statutes.
- D. Based upon recent case law pertaining to this issue and recommendations from the Ingham County Prosecutor’s Office and the 54-B District Court Chief Judge, it shall be Department policy that we adhere to the following guidelines for individuals arrested without a warrant.
  - 1. For “fresh arrest” felony offenses, domestic assaults, and violations of a Personal Protection Order that occur in Ingham County follow the guidelines outlined in section # 2.12 to have the defendant arraigned.
  - 2. For “fresh arrest” felony offenses, domestic assaults, and violations of a Personal Protection Order that occur in Clinton County follow the guidelines outlined in section # 2.14 to have the defendant taken for a bond hearing.
  - 3. For “fresh arrest” misdemeanor offenses that occur in Ingham County or Clinton County the defendant does not have to be arraigned on a weekend or holiday. However, the defendant shall only be lodged for a period not to exceed 48 hours. If the defendant is unable to post bond, they shall be released on a Personal Recognizance bond no later than the 48 hour time limit.
  - 4. For “fresh arrest” misdemeanor offenses, the on duty supervisor may authorize the defendant to be released on a Personal Recognizance bond at any time prior to the 48 hour time limit, if they deem it necessary.

2.18 MAXIMUM DETENTION TIME FOR DEFENDANTS LODGED ON WEEKENDS OR HOLIDAYS WHEN ARRESTED WITH A WARRANT

- A. Based upon recommendations from the Ingham County Prosecutor’s Office and the 54-B District Court Chief Judge, it shall be Department policy that we adhere to the following guidelines for individuals arrested with a warrant.
  - 1. Individuals arrested on a felony warrant with a bond already set or on a

“no bond” felony warrant can be lodged for a period not to exceed 72 hours.

2. If the individual arrested on a felony warrant is not able to post bond within the 72 hour time limit, the Ingham County Jail should be contacted to see if they will lodge the defendant in their facility. If they are not able to lodge the defendant for us then contact the on- call Circuit Court Judge for guidance.
3. Individuals arrested on a misdemeanor warrant or a bench warrant may be lodged for a period not to exceed 72 hours. If the individual arrested on the warrant is not able to post bond within the 72 hour time limit, then contact the on-call District Court Judge for guidance.

2.19 MISCELLANEOUS

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