



Chapter: Arrests, Use of Force, Care of Prisoners
Subject: 05-20 – General Arrest Authority
Effective: April 19, 2022
Supersedes: Official Order 14, Section 14.1.1, dated April 29, 2021
Distribution: Department Members

PURPOSE: This Order establishes department policy concerning the arrest authority of enforcement members.

05-20-1 ARREST AUTHORITY

A. Definition of Arrest

An arrest is basically when the police deprive a person of their 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 them 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 written directive related to commercial vehicle enforcement, and that of state properties security officers is outlined in written directive related to state properties security officer.
- (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.

DIRECTOR

Annual Review Responsibility: Transparency and Accountability Division

Accreditation Standards: CALEA 1.2.1