

PROCEDURE MANUAL

07-26



MICHIGAN STATE POLICE

Border Guidance

Purpose: This manual provides guidance and information for members whose enforcement duties have taken them into a state bordering Michigan. There are occasions where an enforcement member may be called to act in their official capacity out-of-state under circumstances that do not fall under the fresh pursuit law. In those circumstances, an enforcement member's responsibilities and authority change, and it is necessary to understand those changes when making decisions.

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Definitions:

Extradition: The lawful removal, through legal process, of a person from a requested state or country to a requesting state or country for criminal prosecution or punishment.

Fresh Pursuit: The pursuit of a person who has committed a felony or is reasonably believed to have committed a felony, even if no felony has been committed. It does not mean "instant pursuit" but rather pursuit without "unreasonable delay." Also referred to as "close pursuit" in some states.

Section 1: Border Considerations

In the course of their duties, enforcement members may be required to operate outside the border of Michigan and into bordering states in response to emergency assistance requests, calls for service, continuation of enforcement action, or court order. Police authority may be granted by states other than Michigan to allow enforcement members to act when these circumstances arise. While that authority may be granted, members shall not routinely enter or take enforcement action in those bordering states, recognizing that their primary mission is within Michigan.

1.1 Calls for Service

- a. Members assigned to worksites bordering Indiana, Minnesota, Ohio, and Wisconsin may receive calls for service within the borders of Michigan, requiring travel along roadways that enter into one of these states. Members should use the roadways that allow them to reasonably respond to service calls in a timely manner.

1.2 Emergency Assistance

- a. Members responding to requests for assistance from bordering states shall ensure their supervisor is aware of the location and nature of the request.

1.3 Extradition

- a. When a member is lawfully exercising their authority in a border state, and desires to bring an individual into Michigan, that individual must always be detained in the border state and not removed from the border state prior to proper extradition. For additional information, see written directives related to extraditions.

Section 2: Indiana

2.1 Fresh Pursuit

- a. Under Indiana law, an enforcement member in fresh pursuit of an individual believed to have committed a felony in Michigan can pursue and arrest the suspect with the same authority as a law enforcement officer in Indiana. See [IC 35-33-3-1](#). Once arrested, a judge in the county where the arrest occurred will review the lawfulness of the arrest. If the judge determines the arrest was lawful, the suspect will be held pending an extradition warrant. See [PM 05-08](#). If the arrest was unlawful, the suspect shall be discharged. See [IC 35-33-3-2 IC](#) and [35-33-3-5](#).

2.2 Declared Emergencies and Planned Events

- a. Indiana participates in the Emergency Management Assistance Compact. See [IC 10-14-5-1](#).
- b. In a declared state of emergency or planned event where the Indiana governor (or designated individual) requests assistance, responding enforcement members may have up to full arrest authority if stated explicitly in the request. The request for help must be made from an authorized Indiana representative to an authorized individual in Michigan. See [IC 10-14-5-3](#).

2.3 Mutual Aid Agreements

- a. Two sections of Indiana law allow for entering into mutual aid agreements with other states, and both include law enforcement. [IC 36-1-7-7](#) provides that out-of-state members operating with or without a formal mutual aid agreement can assist upon request. Out-of-state law enforcement officers will have the same authority and duties as the person they are helping only for the period they are actively engaged in or authorized by the requesting agency.

- b. Section [10-14-6.5-4](#) allows any political sub-division in Indiana to enter into a mutual aid agreement with other agencies, including other states, for assistance in non-declared emergencies. These agreements can provide coordinated communication, training, and emergency response.
- c. Without such an agreement, an enforcement member in Indiana has the same authority as a private citizen.

2.4 Citizen Arrest Authority

- a. A private citizen has the authority to arrest another person if the individual commits a felony in the citizen's presence, a felony has actually been committed, and the citizen has probable cause to believe the individual committed it, or a misdemeanor involving breach of the peace is committed, the individual committed it, and the arrest is necessary to prevent the violation from continuing. The citizen making the arrest must deliver the arrestee to and notify a local law enforcement officer as soon as practical. [IC 35-33-1-4](#).

Section 3: Minnesota

3.1 Fresh Pursuit

- a. Under Minnesota law, an enforcement member in fresh pursuit of an individual believed to have committed a felony in Michigan can pursue and arrest the suspect with the same authority as a law enforcement officer in Minnesota. See [MSA 626.65](#). Once arrested, a judge in the county where the arrest occurred will review the lawfulness of the arrest. If the judge determines the arrest was lawful, the suspect will be held pending an extradition warrant. See [PM 05-08](#). If the arrest was unlawful, the suspect shall be discharged. See [MSA 626.66](#) and [MSA 626.69](#).

3.2 Declared Emergencies and Planned Events

- a. Minnesota participates in the Emergency Management Assistance Compact. [MSA 192.89](#)
- b. In the event of a declared state of emergency or planned event where the governor of Minnesota requests assistance, responding enforcement members may have full arrest authority if stated explicitly in the request. The request for assistance must be made from an authorized Minnesota representative to an authorized individual in Michigan. [MSA 192.89](#)

3.3 Mutual Aid Agreements

- a. A government unit may contract services with another government unit, including another state, for a joint exercise of power. [MSA 471.59](#). An enforcement member operating under such an agreement will have the authority of a Minnesota peace officer. [MSA 471.59](#).
- b. Without such an agreement, an enforcement member in Minnesota has the same authority as a private citizen.

3.4 Citizen Arrest Authority

- a. A private citizen has the authority to arrest an individual in the following circumstances: first, when the individual has committed a public offense in the citizen's presence; second, when an individual has committed a felony when not in the citizen's presence, or third when a felony has been committed, and the citizen has reasonable cause to believe the individual committed it.

[MSA 629.37](#). A public offense applies to petty misdemeanors and does not need to be a breach of the peace. See *State v Sellers* 350 NW2d 460 (1984) and *Smith v Hubbard*, 91 NW2d 756 (1958). This statute applies to any person in Minnesota, including out-of-state law enforcement. See *US v Benjamin* 95 2d 756 (1993).

Section 4: Ohio

4.1 Fresh Pursuit

- a. Ohio's fresh pursuit statute as part of the Uniform Act on Fresh Pursuit is [ORC 2935.30](#). It allows an enforcement member to pursue and arrest a subject that the member reasonably believes has committed a felony in Michigan. Once arrested, a magistrate in the county where the arrest occurred will review the lawfulness of the arrest. If the magistrate determines the arrest was lawful, the magistrate can order the suspect held pending an extradition warrant or released on bail. See [PM 05-08](#). If the arrest was unlawful, the suspect is discharged. See [ORC 2935.31](#) and [ORC 2935.29](#).

4.2 Declared Emergencies and Planned Events

- a. Ohio participates in the Emergency Management Assistance Compact. [ORC 5502.40](#)
- b. In the event of a declared state of emergency or planned event where the governor of Ohio requests assistance, responding enforcement members may have full arrest authority if stated explicitly in the request. The request for assistance must be made from an authorized Ohio representative to an authorized individual in Michigan. [ORC 5502.40](#)

4.3 Mutual Aid Agreements

- a. Ohio law [737.04](#) allows the legislative authority for any municipal corporation to contract with another law enforcement agency of an adjoining state to provide for the use and services of personnel and equipment. If a mutual aid agreement is in place, an enforcement member may enter the jurisdiction where the agreement is in place and have the authority defined in the agreement.
- b. Without such an agreement, enforcement members operating in Ohio have the authority of a civilian.

4.4 Citizen Arrest Authority

- a. A citizen in Ohio can make an arrest when there has been or is reason to believe a felony has been committed. [ORC 2935.04](#). A citizen cannot effect an arrest for a misdemeanor. See *Jackson v Gossard*, 549 NE2d 1234 (1989). The arrested individual must be turned over to law enforcement or taken before the most convenient judge, magistrate, or clerk. [ORC 2935.06](#)

4.5 Ohio Special Considerations

- a. "The Lost Peninsula"

The fresh pursuit statute likely does *not* apply to a situation where an enforcement member is in Michigan and must travel out of Michigan to re-enter Michigan to respond to a call. Ohio law exempts public safety and law enforcement from specific traffic laws in emergency response situations. Those laws, however, likely do not apply to out-of-state officers without a mutual aid agreement. Therefore, if an enforcement member is responding to a call for service in Michigan

and must travel through Ohio to respond to that call, the enforcement member should not use emergency response driving techniques.

Section 5: Wisconsin

5.1 Fresh Pursuit

- a. Under Wisconsin law, an enforcement member in close pursuit of an individual believed to have committed a felony in Michigan can pursue and arrest the suspect with the same authority as a law enforcement officer in Wisconsin. Once arrested, the suspect must be taken before a judge in the county where the suspect was arrested without unnecessary delay. The judge will review the lawfulness of the arrest. If the judge determines the arrest was lawful, the judge will order the suspect held pending an extradition warrant or release on bail. See [PM 05-08](#). The suspect will be discharged if the judge determines the arrest was unlawful. See [WSA 976.04](#) and [WSA 976.04\(5\)](#).

5.2 Declared Emergencies and Planned Events

- a. Wisconsin participates in the Emergency Management Assistance Compact. [WSA 323.80](#)
- b. In the event of a declared state of emergency or planned event where the Wisconsin governor (or designated individual) requests assistance, responding enforcement members may have up to full arrest authority if stated explicitly in the request. The request for assistance must be made from an authorized Wisconsin representative to an authorized individual in Michigan.

5.3 Mutual Aid Agreements

- a. A Wisconsin law enforcement agency (county, city, village, or town) may enter into a mutual aid agreement with a law enforcement agency in Michigan. See [WSA 175.46](#). If a mutual aid agreement is in place, an enforcement member may enter the jurisdiction where the agreement is in place and have the authority defined in the agreement.
- b. Without such an agreement, enforcement members operating in Wisconsin have the authority of a civilian.

5.4 Citizen Arrest Authority

- a. Wisconsin does not have a citizen's arrest statute and follows the common law. Case law holds that a police officer outside their jurisdiction has the same authority to effect an arrest as a citizen. See *City of Waukesha v Gorz*, 479 NW2d 221 (1991). A citizen can make a misdemeanor breach of peace arrest or a probable cause felony arrest when the offense is committed in the citizen's presence and public safety requires it because the crime involves or threatens to incite violence. See *Radloff v National Food Stores, Inc.* 123 NW2d 570 (1963). In effecting an arrest, a police officer outside their jurisdiction can rely on equipment (lights, uniform, badge, etc.), knowledge, experience, and police procedure.

5.5 Wisconsin Special Considerations

- a. The fresh pursuit statute likely does *not* apply to a situation where an enforcement member is in Michigan and must travel out of Michigan to re-enter Michigan to respond to a call. Wisconsin law exempts public safety and law enforcement from specific traffic laws in emergency response situations. Those laws, however, likely do not apply to out-of-state officers without a mutual aid agreement. Therefore, if an enforcement member is responding to a call for service in Michigan

and must travel through Wisconsin to respond to that call, the enforcement member should not use emergency response driving techniques. With respect to the stretch of roadway along US-2 that exits Michigan and then reenters Michigan in the Florence, Wisconsin area, having an agreement in place ahead of time that confers law enforcement authority to department members, would be necessary to be granted Wisconsin legal exemptions from specific traffic laws for emergency driving through Wisconsin.

Review Responsibility: Field Services Bureau; Transparency and Accountability Division; Legal Resource and Education Section

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