

**GENERAL ORDERS MANUAL
WESTERN MICHIGAN UNIVERSITY
DEPARTMENT OF PUBLIC SAFETY**

I. PURPOSE

The purpose of this general order is to provide guidelines pertaining to adult arrests, alternate care for arrestee's dependents, and strip and body cavity searches.

II. POLICY

It is the policy of WMU Public Safety to respect and protect the individual constitutional rights of all persons. It is the obligation of all sworn officers to familiarize themselves with the laws, ordinances, and department directives pertaining to constitutional rights to ensure their recognition of and compliance with these rights.

Public Act 393 of 2020, effective April 1, 2021, amended MCL 764.9c to require persons arrested for certain misdemeanors and ordinance violations having a maximum penalty not exceeding 1-year in jail to be released from custody.

A police officer must issue and serve an appearance ticket on the arrested person and release from custody unless (1) issuance of an appearance ticket is expressly prohibited as described in this policy or one of the allowable circumstances authorizing the officer to take an arrested person before a magistrate and promptly file a complaint.

III. PROCEDURE

A. Authority to Make Arrests

Sworn WMU Public Safety officers may make arrests under the following circumstances:

1. With a warrant, within their jurisdiction or within any county of this state; however, WMU officers shall request the presence of the local jurisdiction prior to attempting a warrant arrest. (3.1.3.a)
2. Without a warrant for a felony, misdemeanor or ordinance violation committed in their presence except in cases where a prohibition of release as described in this policy exists (MCL 764.9c). (3.1.3.b)
3. Without a warrant when they have probable cause to believe a felony has been committed and that the person to be arrested committed it. Probable cause may be provided by radio broadcast from recognized police or other government radio station. (3.1.3.b)
4. Without a warrant if notified that another peace officer holds a warrant. (3.1.3.b)

5. Without a warrant when they have probable cause that the person is an escaped convict, has violated a condition of parole from prison, or has violated a provision of probation imposed by a court. (3.1.3.b)
6. A peace officer may, without a warrant, arrest and take into custody an individual when the officer has reasonable cause to believe an individual has violated the provisions of a personal protection order. (3.1.3.b)
7. A peace officer may, without a warrant, take into custody a person if the peace officer has reasonable cause to believe is violating or has violated a child protective order. (3.1.3.b)
8. A peace officer may, without a warrant, arrest and take into custody a person if the peace officer has reasonable cause to believe the person has committed or is committing a misdemeanor punishable by imprisonment for more than 1-year. (3.1.3.b)

B. Misdemeanor Traffic Violations

1. Persons committing the following misdemeanor traffic violations will be physically arrested and detained. (3.1.3.b)
 - (a) Operating While Intoxicated (OWI)
 - (b) Operating Under the Influence of Drugs (OUID)
 - (c) Operating With the Presence of Drugs (OWPD)
 - (d) Operating While Visibly Impaired (OWVI)
2. Persons who commit misdemeanor traffic violations, with the exception of OWI, OUID, OWPD, or OWVI, should be handled by the issuance of a uniform traffic citation and appropriate report. (3.1.3.c)
3. Those violations that indicate the operator is not legally qualified to drive (DWLS, etc) should be handled by the issuance of a uniform traffic citation and impoundment of the vehicle if no licensed driver is present. The vehicle may be legally parked at the discretion of the officer as well when no licensed driver is present. (3.1.3.c)

IV. OFFENSES REQUIRING ARREST WITH COMPLAINT/WARRANT (3.1.3.a)

Appearance tickets cannot be written for the following offenses:

- A. Assault and battery, including domestic violence, MCL 750.81, MCL 750.812.
- B. Aggravated assault, including aggravated domestic violence, MCL 750.81a. Offenses involving domestic violence has been expanded to include the following under MCL 400.1501(d) and MCL 400.1501(e):
 1. Engaging in activity that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.
 2. The minor child of an individual of the family or household member as described in MCL 400.1501(e).
- C. Enticing child for immoral purposes, MCL 750.145a.

- D. Intentional aiming of firearm without malice, MCL 750.233.
- E. Discharge of a firearm without malice, MCL 750.234, MCL 235.
- F. Leaving the scene of a personal injury accident, MCL 257.617a.
- G. Injuring worker in work zone, MCL 257.601b.
- H. Fourth degree child abuse, MCL 750.136b(5).
- I. Indecent exposure, MCL 750.335a.
- J. Furnishing alcohol to minor resulting in injury or death, MCL 436.1701.
- K. Stalking, MCL 750.411b.
- L. OUIL/OWI with car or boat resulting in injury or property damage, MCL 257.625 and MCL 324.80176.

V. HANDLING OF MISDEMEANOR CASES – NO ARREST MADE

- A. If no arrest is made, and if the officer elects to have the case reviewed by the Prosecutor's Office for possible charges, submit the case for charge consideration via LEAP.
- B. If charges are appropriate, the Prosecutor's Office will authorize either a summons or a Complaint/Warrant (depending on the crime) and notify this agency.
- C. If a Complaint/Warrant is issued, the Court will process the case and paperwork through the existing LEAP procedures and processes.
- D. If a summons is issued, the Court will be responsible for serving the defendant.

VI. HANDLING OF MISDEMEANOR CASES – ARREST MADE

- A. If the misdemeanor is not on the prohibited offense list and if no exceptions are found (and there is probable cause to arrest), the officer must issue an appearance ticket for misdemeanor offense and release the person from custody.
- B. Upon issuance of the appearance ticket, this agency must submit the case report, appearance ticket and all other related reports to the Prosecutor's Office through the LEAP system. There is a "drop down" option in LEAP to select "ticket issued or appearance ticket issued".
- C. If the misdemeanor is a prohibited offense, or if an exception is found (and there is probable cause to arrest), the officer may take the person into custody and submit the case for review by the Prosecutor's Office.
- D. If charges are appropriate, the Prosecutor's Office will authorize either a summons or a complaint/warrant (depending on the crime) and will notify this agency.

- E. If a complaint/warrant is issued, the Court will process the case and paperwork through the existing LEAP procedures and processes.
- F. If a summons is issued, the Court will be responsible for serving the defendant.
- G. **An OWI arrest, while not on the prohibited offense list, fits under one or more of the Exceptions, thus justifying a custodial arrest.**

VII. EXCEPTIONS TO ISSUING REQUIRED APPEARANCE TICKETS

An officer otherwise required to issue and serve an appearance ticket and release the arrested person on MCL 764.9c(4)(1) may instead take the arrested person before a magistrate and promptly file a complaint as provided in MCL 764.13 if one of the following circumstances exists:

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

VIII. REPORT REQUIREMENTS

If an officer of this agency determines that one of the allowable circumstances exist to take an arrested person before a magistrate and promptly file a complaint instead of issuing an appearance ticket, the officer must specify the reason for not issuing a citation in the report and must forward the report to the Prosecutor's Office.

IX. ARRESTS OF FOREIGN NATIONALS (3.1.3.e)

- A. Prior to an arrest with or without a warrant of a foreign diplomat, an individual who has diplomatic immunity or is otherwise statutorily immune from arrest, an officer shall notify a command officer, when possible.
- B. When a foreign national is arrested or is being detained, an officer may notify that person's country consular representative here in the United States. This notification must be documented in the police report. Refer to a listing of countries and jurisdictions with mandatory notifications at

travel.state.gov/content/travel/en/counsularnotification/QuarantinedForeignNationals/countries-an-jurisdictions-with-mandatory-notifications.html.

X. ARRESTEE PROCESSING PROCEDURE

- A. Arrestees will be brought to the Kalamazoo County Jail to be processed, photographed, and fingerprinted. If an arrestee is brought to WMU Public Safety, the arrestee will be brought into the building through the security door next to the police callbox. (3.1.3.f, g)
- B. Officers will complete the Kalamazoo County Jail Booking Information through the New World RMS system.
- C. In-custody warrantless arrests require an Identix fingerprint records. Kalamazoo County Jail staff will obtain the arrestee's fingerprint record, photograph the arrestee and collect DNA, if required. Jail protocol from the Sheriff of KCSD shall be followed. (3.1.3.f, g)
- D. Any unusual circumstances affecting the health and wellbeing of the arrestee, particularly suicide risk, shall be immediately brought to the attention of jail staff.
- E. The Kalamazoo County Jail can only take an arrestee's immediate personal property; all other property of value must be taken to WMU Public Safety for safekeeping or if applicable as evidence.
- F. Arrestees will be relieved of all of their property and thoroughly searched. Adequate clothing for detainee's comfort may be retained by them. All other clothing, including ties, belts, and shoelaces, shall be removed.

XI. LANGUAGE LINE SERVICES (3.1.3.e)

For individuals in the community who are not proficient in English, translation services have been secured for this department through Language Line. An interpreter may be accessed by calling (888) 808-9008; the PIN is: 33258086. The department is charged only when an interpreter is used.

XII. COMMUNICATIONS WITH PERSONS WITH DISABILITIES (3.1.3.e)

- A. In emergency situations involving an imminent threat to the safety or welfare of any person, officers may use whatever auxiliary aids and services reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service.

Once the emergency has ended, the continued method of communication should be reconsidered. An officer should inquire as to the individual's preference and give primary consideration to that preference.

- B. The only way a deaf person can fully understand their rights is if they have an American Sign Language Interpreter. Interpreters are available "on call" through Deaf & Hard of Hearing Services (DHHS). This is a local interpreting agency located in Grand Rapids, but they employ interpreters in southwest Michigan. For police emergencies/after hours,

contact DHHS at (616)-732-6124. For normal business hours and non-emergencies, contact DHHS at (616) 732-7358.

- C. If an individual who is deaf, is hard of hearing or has impaired speech must be handcuffed while in the custody of WMU Public Safety, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.
- D. This department shall never refuse an available service to an individual with disabilities who is requesting assistance. The department will not charge anyone to receive auxiliary aids, nor shall it require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The department will make every reasonable effort to provide equal access and timely assistance to individuals with disabilities.
- E. If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.
- F. Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.
- G. The department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form or provide forms with enlarged print.

XIII. ALTERNATE CARE FOR ARRESTEE'S DEPENDENTS (3.1.4)

- A. Upon the arrest of an individual who is responsible for the care of dependents, the officer will attempt to obtain the name of a responsible relative to assume custody of dependents.
- B. If a relative can be contacted, officers will do the following before releasing dependents:
 - 1. Obtain valid and current identification for the relative.
 - 2. Ensure the relative is not wanted on criminal charges nor has a warrant for their arrest via LEIN check.
- C. If a relative cannot be contacted, officers will solicit from the arrestee another alternative. Before releasing dependents to a family alternative, officers will do the following:
 - 1. Obtain valid and current identification from the family alternative.
 - 2. Ensure the family alternative is not a convicted child sex offender.
 - 3. Whenever possible, the officer will have the arrestee give written permission as to the selection of the alternate person they choose to take custody of dependent(s). Permission may be documented on mobile video in lieu of written permission.
 - 4. If officers are concerned about the children's welfare, Child Protective Services will be contacted.
 - 5. If no one can be contacted to assume custody of dependents, WMU Public Safety employees will contact Child/Adult Protective Services Intake at (855) 444-3911, option 3 for law enforcement with access code #911, and arrange for care.

6. Child Protective Services does not need to be contacted in cases where placement is made without their assistance.

XIV. STRIP/BODY CAVITY SEARCHES

- A. Strip searches are governed by MCL 764.25a and are defined as searches which require a person to remove his or her clothing to expose underclothing, breasts, buttocks or genitalia. They are closely regulated, and violations of the governing statute are misdemeanors. Strip searches are permissible when either of the following are present: (3.1.5.a)
 1. The individual has committed a misdemeanor or civil offense and is being lodged in a detention facility, or
 2. The officer has reasonable cause to believe that the person is concealing a weapon, a controlled substance, or evidence of a crime. (3.1.5.a)
 - a. Strip searches will be conducted only after receiving prior written approval by the Chief or Deputy Chief. (3.1.5.a) (3.1.5.b)
 - b. Strip searches of minors will only occur in a detention facility. (3.1.5.a) (3.1.5.b)
 - c. If the strip search is conducted upon a minor in a juvenile detention facility which is not operated by a law enforcement agency, the strip search is conducted by a person who has obtained prior written authorization from the chief administrative officer of that facility, or designee.
 - d. A strip search will be conducted only by a person of the same gender as the person searched and in a place which prevents the search from being observed by a person not conducting or assisting in the search.
 - e. The person being searched will be provided free of charge a report containing the following information:
 - (1) The name and sex of the person subjected to the strip search.
 - (2) The name and sex of the person conducting the search.
 - (3) The name and sex of the person assisting in conducting the search.
 - (4) Date, time, and place of the strip search.
 - (5) The justification for conducting the strip search.
 - (6) A list of all items recovered from the person who was strip searched.
 - (7) A copy of the written authorization as requested by statute.
 - f. Although the statute is silent regarding felony arrests, this strip search policy will also be followed in its entirety for felony subjects.
 - g. Searches of transgender individuals/identities will be done by two officers of the gender requested by the transgender subject. If the subject does not specify a preference, then the search will be done by officers of the same gender as the transgender subject's gender presentation. If gender presentation or identity is not clear, the subject will be searched by one female and one male officer. (3.1.5.b)
- B. Body cavity searches are defined as intrusions of the rectum, vagina or stomach and are governed by MCL 764.25b. Any officer who has probable cause to support a body cavity search must obtain a search warrant and have the search conducted by a licensed physician or physician's assistant, licensed practical nurse or registered professional nurse acting with the approval of a licensed physician. (3.5.1.c)

The requirements for strip searches stated in the previous section also applies to body cavity searches. Following a body cavity search, the free report provided to the searched person shall have all the information stated in the previous section (Section X, A, 2, e) along with these additional items:

1. The names and sex of all persons present listed as a separate item.
 2. A copy of the search warrant authorizing the body cavity search.
- C. Reports and documents prepared pursuant to this policy and state law will become part of an official police report. (3.1.5.d)

Issued Date: 05/14/13

Revised Date(s): 10/27/16, 10/14/20, 03/30/21

Issued by

Scott Merlo
Director of Public Safety