

## CHAPTER 16

### ARRESTS, PRISONERS, REGISTERING, AND RELEASING

#### ARRESTS

**Section 1. Crime Defined.** A crime is an act committed or omitted in violation of a public law either forbidding or commanding it. Crimes are classified as felonies or misdemeanors.

**Section 2. Felony.** A felony is a crime which is punishable by imprisonment in a state prison.

**Section 3. Misdemeanor.** A misdemeanor includes all offenses less than a felony. These offenses are punishable by imprisonment in the county jail or House of Correction or by a fine.

For the purpose of court procedure, misdemeanors are further classified as high or low misdemeanors.

**Section 4. High Misdemeanors.** Any offense carrying a maximum penalty of more than one hundred dollars fine and/or ninety days' imprisonment but less than state prison sentence is a high misdemeanor.

**Section 5. Low Misdemeanors.** A low misdemeanor is any offense that carries a maximum penalty up to and including one hundred dollars fine and/or ninety days' imprisonment. Low misdemeanors are further classified into early session cases and offenses for which it is necessary to obtain a recommendation for a warrant.

**Section 6. City Ordinances.** City ordinances are laws passed by the Common Council for violation of which an officer cannot arrest unless a warrant is secured in advance.

**Section 7. Arrest Defined.** An arrest is the restraint of one's liberty in order that he may be forthcoming to answer to an alleged crime.

**Section 8. Arrest — When Effected.** To arrest a person is to subject him to your control, detain him in your custody, or compel him to go with you. Whenever this has been done, whether by force or by voluntary submission on the part of the arrested person, an arrest has been effected.

**Section 9. Arrests — Time of.** An arrest may be made on any day at any time of the day or night.

**Section 10. Arrest for Misdemeanor — Time Limit.** A misdemeanor arrest must be made immediately or within a reasonable time after the offense has been committed. Otherwise it shall be necessary to obtain a warrant before making the arrest.

**Section 11. Arrests Without Warrant.** A peace officer may arrest a person without a warrant in the following cases:

- a. For the commission in his presence of any felony or misdemeanor. An offense is com-

mitted in the presence or view of an officer when he receives knowledge of the commission of the offense through any of his senses and not from the statements of others.

- b. When the person has committed a felony although not in the presence of the officer.
- c. When a felony has been committed and the officer has reasonable cause to believe that the person has committed it.
- d. When he has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person has committed it. When an officer in good faith believes that a person is guilty of a felony and his belief rests on such grounds as would induce an ordinarily prudent and cautious man under the circumstances to believe likewise, he has such probable or reasonable cause as would justify an arrest without a warrant.
- e. When an officer has received positive information either written or by telegraph, teletype, telephone, radio or other authoritative source that another officer holds a warrant for such arrest.
- f. When an officer has received such positive information broadcast from any recognized police or other governmental radio station or teletype as may afford him reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person has committed it.
- g. When an officer has reasonable cause to believe that the person is an escaped convict or has violated a condition of parole from any prison or has violated a condition of probation imposed by any court or has violated any condition of a pardon granted by the executive.

In case of adultery, a warrant must be secured prior to an arrest.

When arresting a person without a warrant, the officer making the arrest shall inform the person arrested of his authority and the cause of the arrest, except when the person arrested is engaged in the commission of a criminal offense or if he flees or if he forcibly resists arrest before the officer has time to inform him.

**Section 12. Arrest With a Warrant.** If an officer holds a warrant which appears legal upon its face, this frees him from any action for illegal arrest, and also makes the arrest legal.

However, a person upon whom a warrant is to be served must be positively identified as the one having committed the offense mentioned in the warrant, as a mistake in identity may make the officer liable for a false arrest.

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The officer should bear in mind, however, that a warrant is not necessarily to be considered when he has reasonable cause to believe that a felony has been committed and has reasonable cause to believe that the person whom he is about to arrest committed the crime.

**Section 13. Warrant Not in Officer's Possession.** When an arrest is made under a warrant it shall not be necessary for the arresting officer to have the warrant in his possession. If possible the officer must inform the person arrested that there is a warrant for his arrest, and after the arrest is made he shall show the warrant to the person, if required, as soon as possible.

**Section 14. To Inform Person Arrested of Reason for Arrest.** Every arrested person has a right to know why he is arrested. If the reason for the arrest is unknown to the person arrested, the officer should inform him. If it is by virtue of a warrant, the officer should inform the prisoner of its nature and contents. If a request is made to see and read the warrant, the prisoner's request should be granted when it can be done without danger of his escaping. The safety of the warrant is of no consequence, for if the prisoner having obtained possession of the warrant should burn or destroy it, this would not affect the right and duty of the officer to take the prisoner before the magistrate who issued the warrant. It would be the duty of the officer to obey the command of the warrant as though he still had it in his possession.

**Section 15. Probable Cause.** There is no absolute or definite cause which shall determine probable cause. It is always a question of discretion and common sense. Mere suspicion, rumor, or anonymous information without supporting facts shall not be sufficient. Perhaps as good a method as an officer can adopt to test a question in any given case is this: Would the facts present satisfy the judicial mind of the court? If the officer in good faith thinks the facts present would, the arrest would in all probability be justified. If a warrant has actually been issued, this solves the problem and justifies the officer in making the arrest whether he has the warrant with him or not.

The rule of probable or reasonable cause applies only to arrest without a warrant involving felonies.

**Section 16. Misdemeanors.** The other class of offense for which an officer may and should arrest without a warrant is the commission of a misdemeanor in the officer's presence. This includes breaches of the peace. By the words, "committed in the presence of the officer," is meant that the officer knows of his own knowledge or from his senses and not from the statements of others that the party whom he arrests committed the act. If the officer does not know the fact without depending on information from other persons, the act is not committed in his presence within the meaning of the law. If an officer is going to arrest without

a warrant for a misdemeanor committed in his presence, he must do it or set about to do it at once. If he does not do it at such time, he cannot do it afterwards without procuring a warrant.

Relative to breaches of the peace, the disturbance or contention must be such as to affect the public at large.

**Section 17. Prisoner, Right to Retake.** If a person is lawfully arrested and escapes or is rescued, the person from whose custody he escaped or was rescued may pursue him immediately and retake him at any time and in any place within the state without a warrant. To retake the person escaping or rescued, the officer pursuing may use the same means as are authorized for an arrest.

**Section 18. Arrests for Outside Authorities.** Members must not undertake to arrest or transact police business for officers from outside the city without first being authorized by their commanding officer unless circumstances require an immediate arrest.

Upon application to the commanding officer for the arrest of any person by police authorities from outside the city, the officer in charge shall communicate with the detective division inspector without unnecessary delay and shall be governed by the advice obtained from him. If authorized to make the arrest from the station, the officer in charge shall detail one of his officers to make the arrest.

After an arrest has been made, the prisoner shall be taken to the station and registered using "Fugitive" as the formal charge, and the type of arrest shall be misdemeanor or felony as the case may be. All female prisoners, however, shall be registered at the Women's Detention Quarters.

In case such arrest was authorized by written or telegraphic communication, the Detective Division shall assume charge of the case and shall communicate through official channels with the authorities by whom the prisoner is wanted. A receipt shall be required for all prisoners turned over to police authorities outside the city. If the prisoner is being taken to another state, both the receipt and a waiver shall be required.

**Section 19. Arrests Outside City.** A Detroit police officer must obtain permission from his commanding officer before going outside the city to make an arrest. Before making such an arrest, he shall contact the police authorities having jurisdiction over the territory in which the person to be apprehended resides. However, when an officer is in close pursuit of a person whom he knows has committed a crime, he may pursue without permission and make an arrest without obtaining permission from the authorities having jurisdiction over the territory in which the person is apprehended. After making the arrest, the officer shall notify the authorities having jurisdiction over the territory in which the person is apprehended.

When an officer is in close pursuit of a person who has committed an ordinance violation, he may

also pursue him and serve a violation complaint without obtaining permission from the authorities having jurisdiction over the territory in which the person is apprehended.

**Section 20. Arrest of Bus Drivers, Post Office Employees, U. S. Armed Forces Personnel and Persons Absent Without Leave from Veterans Administration Hospitals.** When a motorbus driver driving a bus or when a person engaged in the delivery or collection of mail is guilty of a minor offense, he shall not be taken into custody but shall be required to report to the precinct station to which the arresting officer is attached in time to be registered and tried at the next following session of court. For a felony or serious offense, the arresting officer shall accompany the prisoner to the bus depot or to a point where he may be relieved properly. However, postal employees shall be taken to the nearest post office before being taken to a precinct station.

D.S.R. buses shall not be detained unnecessarily for the purpose of investigating accidents at the scene. However, buses may be detained during the investigation provided the action is necessary and the coach operator has an opportunity to transfer passengers and make arrangements to assure protection of the cash box. When it is necessary to take such action, the D.S.R. dispatcher shall be notified.

When a member of this department arrests a member of the U. S. armed forces for any offense, he shall notify immediately the detective division inspector by telephone and forward a preliminary complaint record giving the details of the arrest.

In addition to the other pertinent information required on the preliminary complaint record, the officer shall include the offender's service number, organization, camp or station and the extent of injuries and/or property damage, if any.

The detective division inspector shall be responsible for disseminating such information to the branch of the service concerned. An up-to-date file on who is to be notified, telephone numbers, office locations, etc. shall be kept at the detective division desk.

Members shall be authorized to arrest armed forces personnel who may be deserters or absent without leave upon the request of military authorities. When a reward is offered for the apprehension of such persons, the chief of detectives shall determine who is entitled to it and forward his recommendation to the superintendent.

When any member desires to enter a military installation for the purpose of arresting a member of the armed services for violation of a state law, he shall first clear his actions through the chief of detectives. The chief of detectives shall determine if such action is necessary. He shall see that the necessary papers are obtained and requirements are met.

When a person subject to the provisions of the selective service law is arrested for any cause and does not have a proper selective service regis-

tration on his person, a typewritten report including name, address, and other pertinent information regarding the subject shall be forwarded to the Special Investigation Bureau for proper disposition.

Members shall be authorized to arrest persons absent without leave from a Veterans Administration Hospital upon written request to the chief of detectives from the manager of the Veterans Administration Hospital, Battle Creek, Michigan. These persons shall be registered as fugitives and the type of arrest shall be detention. Immediately after registration, the prisoner shall be transferred to the ninth floor of Police Headquarters, and the original copy of the arrest ticket shall be delivered to the detective division desk. Upon receiving notice that the prisoner is in custody, the detective division desk inspector shall be responsible for relaying this information promptly to the Veterans Administration Hospital authorities, Battle Creek, Michigan, by collect telephone call. A written report of the arrest shall be made at once by the arresting officers and forwarded to the chief of detectives.

**Section 21. Arrests in Personal Quarrels.** Members of the department shall not make arrests in their own quarrels nor those of their families except under grave circumstances which would justify their using measures of self-defense.

**Section 22. Disturbances in Private Homes.** When a police officer is called to a disturbance involving family difficulties in a private home, he should recognize the sanctity of the home and endeavor to quell the disturbance diplomatically and restore peace without making an arrest.

In any case in which an officer suspects that a disturbance may result in the injury of any person, it is advisable for the officer to take the person causing such disturbance into custody, at least temporarily, even though it may be against the wishes of the family involved.

**Section 23. Person Accusing Another.** When any person charges another with the commission of a crime and insists that an arrest be made, the police officer shall take the accused to a precinct station if the circumstances appear to warrant it. If the accuser is unknown to the officer he shall be required to accompany them as a complainant.

**Section 24. Civil Rights Violations.** When an officer is called to an establishment upon report of violation of civil rights or the equal accommodations statute, he shall obtain the name and address of all individuals involved, including the alleged violator, the complainant, and all witnesses. He shall advise the alleged violator of the substance of the civil rights or equal accommodations law and present to him a copy of the statute. (Patrol cars shall have adequate supply of the statute in the cars at all times.) He shall advise the complainant and alleged violator of their responsibilities and rights, urging compliance with the law



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and citing the penalty provisions thereof for violations. If compliance results, no further action need be taken other than to make a report. If compliance does not result, the officer shall advise the complainant to report to the precinct detectives on the following morning, at which time the precinct detectives will assist the complainant in obtaining a recommendation for a warrant from the prosecuting attorney.

In addition, the responding officer shall make a complete report of the incident including the names and addresses of all persons involved and all the circumstances. He shall forward a copy of this report to the precinct detectives for their information in making application for a warrant. In the event a warrant is recommended, the responding officer shall testify in court using a copy of the report to refresh his memory. Further, when the violation occurs in a licensed liquor establishment, a violation notice shall be submitted to the Michigan Liquor Control Commission in instances where a warrant is requested.

**Section 25. May Investigate Suspicious Persons.** A police officer may stop and question a person carrying bundles or parcels at unusual hours or under suspicious circumstances. He may stop and question a person suspected of unlawful design and may demand of him his business and destination. Courts have upheld officers who made honest mistakes in making such arrests. In these cases an officer must use his best judgment exercising authority with great caution. No law-abiding citizen will object to being questioned if it is done in a courteous manner.

Patrolling officers shall record on their log sheets the name, address, and license number of persons whom they interrogate on the street and who have a reasonable explanation for their actions. Should the officer feel that he does not have sufficient cause to bring the person into a precinct station and feels that it might be desirable to check this person at a later date, he shall prepare a preliminary complaint record giving the circumstances and the person's identity. This will aid the detectives should there be crimes committed in the area with which the officer was not familiar. These reports shall be labeled "suspicious persons" and shall be submitted to the detectives with the other preliminary complaint records.

**Section 26. May Request Aid of Bystanders.** In making an arrest an officer has a right to call upon bystanders for assistance when necessary. If they refuse they may be prosecuted.

**Section 27. Illegal Arrest.** An illegal arrest is the unlawful restraint of a person's liberty for any length of time. If an officer arrests a person illegally, he and every person aiding in the arrest are responsible and liable in a civil action.

**Section 28. Degree of Severity in Making Arrests.** In making an arrest an officer must be careful not to submit his prisoner to any greater sever-

ity or indignity than is necessary to effect the arrest, and he must bring the prisoner safely to the police station. The state requires the officer to perform his duty regardless of hazard, but in the performance of this duty it requires him to be as gentle and considerate as circumstances will permit. No amount of force is too great in making an arrest if it is necessary to overcome obstinate and dangerous resistance. No measure of severity is justified when there is no reason to fear an escape. The officer must remember that he is responsible for his prisoner and required to do what is necessary to secure him. The officer must use his own discretion, and if he does his duty in a wise and careful manner he will be justified. While the officer is required to be as gentle and considerate as the circumstances will permit in making an arrest he must remember that he is the representative of the law to whose lawful demands all must submit. The officer is charged with the duty and armed with the power to compel submission.

**Section 29. Persons Injured Through Police Action.** The officer involved immediately shall report the incident to the officer in charge of the precinct or bureau and follow this action with a written report. The officer in charge immediately shall notify the commanding officer, division commander, superintendent or deputy who will apprise the commissioner. During the hours of 4:00 P.M. to 8:00 A.M. the detective division inspector shall be notified. The incident shall be investigated immediately and confirmed by a written report compiled by the officer in charge of the precinct or bureau and forwarded to the superintendent through channels.

**Section 30. Officer in Charge Shall Investigate Unjustified Physical Abuse.** If the prisoner has been subjected to unjustified physical abuse, the officer in charge shall cause an immediate investigation to be made.

**Section 31. Right to Break Door.** The state law authorizes the arresting officer to break open, if refused admittance, an outer or inner door of any building in which a person to be arrested is believed to be staying under the following circumstances: if the offense is a felony committed in his presence; if the peace officer has a warrant; or in case of a felony for which no warrant is required. Unless otherwise ordered by a superior officer, the department rule restricts the provisions of this paragraph to cases involving serious crimes and situations in which the officer knows that the person whom he is about to arrest is in the building.

**Section 32. Right to Break Out of Building.** A peace officer who has lawfully entered a building for the purpose of making an arrest may break open a door or window of the building if detained therein when necessary for the purpose of liberating himself. An officer may do the same for the