



POLICY & PROCEDURE

STOUGHTON POLICE DEPARTMENT

**SUBJECT: TRESPASSING: ARREST AND
REMOVAL**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedure Manual

REFERENCE: WI State Statutes: §175.403, §943.14

NUMBER: 6.34

ISSUED: 02/25/2019

EFFECTIVE: 02/25/2019

RESCINDS

AMENDS

WILEAG 4TH EDITION

STANDARDS: N/A

INDEX AS: Criminal Trespass to Dwellings

PURPOSE: The purpose of this Policy & Procedure is to provide guidance for members of the Stoughton Police Department to ensure compliance with Wisconsin State Statute requirements regarding criminal trespass to dwellings; arrest and removal.

This Policy & Procedure consists of the following numbered sections:

I. DEFINITIONS

II. POLICY

III. PROCEDURES

I. DEFINITIONS

A. Criminal trespass to Dwellings:

1. "Dwelling" means a structure or part of a structure that is used or intended to be used as a home or residence by one or more persons to the exclusion of all others. For the purposes of this policy, a dwelling meets that definition regardless of whether the dwelling is currently occupied by a resident.

2. Whoever intentionally enters or remains in the dwelling of another without the consent of some person lawfully upon the premises or, if no person is lawfully upon the premises, without the consent of the owner of the property that includes the dwelling, under circumstances tending to create or provoke a breach of the peace, is guilty of a Class A misdemeanor.

II. POLICY

- A. It is the policy of the Stoughton Police Department to remove a person(s) from a dwelling when probable cause exists to arrest that person(s) for a violation of criminal trespass to dwellings.

III. PROCEDURES

- A. When officers receive a complaint of trespassing they shall first determine if there is a violation of §943.14: Criminal Trespass to Dwelling. In making this determination, the complainant does not need to be on the premises when the trespass occurs. However, the trespass by a person(s) must be under circumstances that tend to create or provoke a breach of the peace.
 1. This process involves only a complaint regarding dwelling(s); trespass to land/property/premises (non-dwellings) is not included for purposes of this Policy & Procedure.
- B. If probable cause exists to make an arrest for this violation, the person(s) shall be removed from the dwelling.
 1. If a person(s) has any lease, rental agreement, or a tenant relationship with the complainant, no probable cause exists nor shall these circumstances be used as an eviction process.
- C. In most instances but depending on the overall circumstances of the event, the investigating officer should make an arrest. **The law does not mandate a custodial arrest.** Depending upon all factors such as other charges, a warrant(s) for arrest, etc., the following may be done:
 1. Taking the person(s) into physical custody and transporting for processing.
 2. A referral to the District Attorney's Office for a misdemeanor charge.
 3. Issuing a citation under City Ordinance 50-4, Criminal Trespass to Dwelling.
- D. If the person(s) has left the scene and is not able to be located, the investigating officer may still seek misdemeanor or municipal charges as noted above.

Chief of Police

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

INITIAL 02/25/2019