



# POLICY & PROCEDURE

## PORTAGE POLICE DEPARTMENT

SUBJECT: **TRESPASSING: ARREST AND/OR  
REMOVAL**

NUMBER: 6.28

SCOPE: All Department Personnel  
DISTRIBUTION: Policy & Procedure Manual

ISSUED: 04/07/2025

EFFECTIVE: 04/07/2025

RESCINDS

AMENDS

REFERENCE: WI State Statutes: §175.403, §943.14

WILEAG 5<sup>TH</sup> EDITION

STANDARDS: 6.1.11

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**PURPOSE:** The purpose of this Policy & Procedure is to provide guidance for members of the Portage Police Department to ensure compliance with Wisconsin State Statute requirements regarding criminal trespass to dwellings; arrest and/or 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 Portage 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. It is imperative that officers investigate to determine whether there is any type of tenant relationship.
  - 2. Crime victim(s), such as domestic abuse victims, etc. shall not be penalized or arrested and removed, particularly if they have a tenant relationship.
  - 3. Generally, the arrest and removal is related to “squatters” or people who occupy a dwelling without the permission of a landlord AND/OR tenant.
- C. In most instances but depending on the overall circumstances of the event, the investigating officer should make an 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 municipal citation.
- 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.

Keith J. Klafke  
Chief of Police

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

Initial 04/07/2025