

UW Whitewater Police



Trespass to Dwelling

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Special Instructions:

Approved By:
Chief Kiederlen

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I. Purpose

Each Law Enforcement agency shall have a written policy regarding the investigation of complaints alleging a violation of s. 943.14. The policy shall require a law enforcement officer who has probable cause to arrest a person for a violation of s. 943.14 to remove the person from the dwelling.

II. Definitions

Dwelling: 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, s.943.3 (1e) (ar).

III. Policy

If someone intentionally enters or remains in the dwelling of another without the consent of the person who lawfully resides in the dwelling or without the consent of the owner of the property, and the circumstances tend to create or provoke a breach of the peace, they can be charged with a Class A misdemeanor, s. 943.14. This process involves only a complaint regarding dwelling(s); trespass to land/property/premises (non-dwellings) is not included.

IV. Procedure

- A. When officers receive a complaint of trespassing, they shall first determine if there is a violation of s. 943.14, Criminal Trespass to Dwelling.
 1. 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.
 2. State statute is not intended to circumvent an eviction proceeding. Officers do not have probable cause of a violation if the suspect has a leased, month to month, or week to week, tenant relationship with the complainant.
 3. Depending on the overall circumstances of the event, if probable cause exists an arrest could be made, which may include criminal referral or physical arrest.

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Officers should use professional communication skills to affect cooperation, prior to forcibly removing a subject from a dwelling and making an arrest.

4. It shall be the policy of the UW-Whitewater Police Department that if an officer has probable cause to arrest a subject for a violation of s. 943.14, the subject shall be removed from the dwelling and judgment of the totality of circumstances would dictate an arrest or not.
5. Officers should use their discretion for investigations regarding “banned” students and typically officers would issue a citation for “Unauthorized Presence” in these instances.
6. If the person(s) has left the scene and is not able to be located, the investigating officer may still seek misdemeanor charges as noted above if the circumstances dictate.
7. All cases of alleged criminal trespass to dwelling will be thoroughly investigated and documented in an incident report.