

MARSHALL POLICE DEPARTMENT POLICY		TITLE: CRIMINAL TRESPASS TO DWELLINGS	
ISSUE DATE: April 1, 2016	LAST UPDATE:	SECTION: Operational	FILE NAME: CRIMINAL TRESPASS TO DWELLING
POLICY SOURCE: Chief Lee Hellenbrand			TOTAL PAGES: 2
SPECIAL INSTRUCTIONS:			

PURPOSE: The purpose of this Policy & Procedure is to provide guidance for members of the Marshall 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

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. Complainant/Property Owner Presence No Longer Required. Previously, 943.14 required the trespass complainant to be present when the trespass occurs. The new Act does not require the complainant to be on the premises when the trespass occurs. The trespass under the circumstances must create or provoke a breach of the peace.
3. Eviction of Individual(s) from Premises. This policy is not to be used in as an alternative to formal eviction proceedings that still need to be followed by the landlord or owner of the property where the violation occurred. If the individual(s) alleged to be violating this law have a lease, month to month, or week-to week, tenant relationship with the complainant this policy does not pertain and should not be enforced.
4. Create or Provoking a Breach of Peace: It seems likely that a person in a dwelling without consent, lease, or other tenant relationship, is creating a circumstance that tends to create or provoke a breach of the peace despite whether the complainant is on scene or not on scene.

II. POLICY

It is the policy of the Marshall 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 under Wisconsin Statute 943.14

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. It seems likely that a person in a dwelling without consent, lease, or other tenant relationship is creating a circumstance that tends 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 this policy does not pertain and should not be enforced. This policy is not to be used as an eviction process.
- C. The mandate in this law is that a law enforcement officer shall remove a person from a dwelling if probable cause exists for a violation of Criminal trespass to a dwelling. **The law does not mandate a custodial arrest.** This will be left to officer discretion based on the totality of the circumstances. Alternatives to arrest may include:
1. A referral to the District Attorney's Office for a misdemeanor charge.
 2. Issuing a citation under Village Ordinance Chapter 11-3-9 if the complainant is on premises or 11-2-8 if complainant is not on premises.
 3. Written warning.
- 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.

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Chief Lee Hellenbrand