

	Marquette University Police Department	
	Policy and Procedure Manual Criminal Trespass to Dwelling	
Policy: 4.15	Issued: April 1, 2016	Date Revised: N/A
WILEAG Standards: N/A		IACLEA Standards: N/A

4.15.00 **Purpose**

The purpose of this Policy is to establish procedures by which the Marquette University Police Department (MUPD) ensures compliance with Wisconsin State Statute 943.14 requirements regarding criminal trespass to dwellings; arrest and removal.

4.13.10 **Policy**

The Marquette University Police Department recognizes it is their primary responsibility 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.

4.13.15 **Scope**

This policy applies to all sworn MUPD members.

4.13.20 **Definitions**

A. CRIMINAL TRESPASS TO DWELLING (WI. §943.14)

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.

B. DWELLING

"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.

4.13.25 Procedure

- 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.
- B. 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.
- C. If probable cause exists to make an arrest for this violation, the person(s) shall be removed from the dwelling.
- D. 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.
- E. 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 Milwaukee Municipal Ordinance for 110-10-1: Trespassing Upon Building / Premises.
 - 3. Verbal warning.

- F. 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.