





POLICIES AND PROCEDURES MANUAL

	ARRESTS	
	POLICY NUMBER: 1-6	ISSUING AUTHORITY 
	EFFECTIVE DATE: January 1, 2025	Christine A. Elow Police Commissioner

I. GENERAL CONSIDERATIONS AND GUIDELINES

The authority to arrest, and thereby deprive a person of liberty, is one of the most important and sensitive duties conferred upon a police officer. Whenever there is sufficient time and opportunity to do so, officers should seek a warrant in advance of an arrest.

Given the nature of police work, however, many arrests must be made without a warrant. Police officers should have a clear understanding of their powers, responsibilities, and duties of arrest under the law. If an unlawful arrest is made, any search made incidental to that arrest will likely be found to be unlawful, and any evidence seized declared inadmissible. Any confession or admissions made after an unlawful arrest may also be excluded in a criminal trial.

Every police officer should recognize that there is no such thing as a routine arrest. Because of the unpredictability of human behavior, there is potential for danger in every arrest. Officers have engaged in life-threatening struggles in situations that initially appeared to be a simple misdemeanor arrest or a vehicle stop for a minor infraction. Officers should be alert to danger and should anticipate the unexpected.

II. POLICY

It is the policy of the Cambridge Police Department that:

- A. officers make mandatory arrests as required by statute or policy;
- B. officers exercise discretion when making warrantless arrests;
- C. a warrant should be obtained prior to making an arrest when practical;
- D. when appropriate, officers exercise discretion and use alternatives to arrest, such as citations, summonses, informal resolutions, warnings, and referrals to other agencies; and
- E. persons taken into police custody shall be afforded all constitutional and statutory rights to which they are entitled at the time of their arrest and while in custody thereafter.

III. DEFINITIONS

- A. *Arrest*: The taking of a person into custody and depriving them of their freedom of action, in accordance with law, in order that such person can be brought before the court to answer to a criminal charge.
- B. *Arrest Warrant*: An order in writing, issued by an authorized court official, directed to officers authorized to serve criminal process, commanding them to arrest the person named or described therein and to bring such person before the court to answer to a charge of crime.
- C. *Breach of Peace*: A violation of public order or decorum, which disturbs the public peace and tranquility, or any act of disorderly conduct that disrupts the public peace.
- D. *Felony*: Any crime punishable by imprisonment in the state prison.
- E. *Misdemeanor*: Any crime where there is no possibility of punishment by death or imprisonment in the state prison.
- F. *Probable Cause*: There are trustworthy facts and inferences that would lead a reasonable person to believe it is more likely than not that a specific crime was or is being committed; and/or evidence of a crime is in a particular place.
- G. *Reasonable Suspicion*: There are trustworthy facts and inferences that would lead a reasonable person to believe that there is a concrete possibility that a crime was, is, or will be committed; and sometimes the suspect is armed and dangerous.

IV. PROCEDURES

- A. Preliminary Guidance Regarding Arrests
 - 1. Whenever possible, arrests should be made with a warrant.
 - 2. An officer should not make an arrest to show authority or to vent personal feelings.
 - a. The attitude of the offender should not be the determining factor in making an arrest.
 - b. Verbal abuse alone is not a sufficient justification for an arrest.
 - 3. To effectively and lawfully execute an arrest, there must be:
 - a. an intention on the part of the police officer to make an arrest;
 - b. that intent must be communicated to the person to be arrested; and
 - c. either a physical seizure or submission to the officer by the arrested person.
 - 4. A sworn and authorized police officer may make a lawful arrest if any of the following conditions are met.

- a. When the officer possesses a valid arrest warrant or when the officer making the arrest and detention has actual knowledge that a warrant for the person has been issued and is in full force and effect.
 - b. Without a warrant for a felony, if there is probable cause to believe the person to be arrested has committed or is committing a felony.
 - c. For a misdemeanor committed in the officer's presence that constitutes a breach of the peace or for a misdemeanor not involving a breach of the peace where a warrantless arrest is allowed by statute.
5. In addition to having lawful authority, the Fourth Amendment requires that a police officer possess *probable cause* to make a valid arrest without a warrant. The element of probable cause must exist at the time of arrest.
 - a. The information upon which an officer relies in making an arrest must be more than mere suspicion, but it does not require sufficient evidence to justify a conviction. It does require a reasonable, common-sense approach by a police officer and an honest judgment based upon a combination of factors, any of which standing alone might not be enough to justify an arrest but which, if viewed as a whole, constitutes probable cause.
 - b. Probable cause to make an arrest is always an overriding consideration for every police officer. Whether or not an arrest is based on probable cause will depend on a variety of factors, and unless the offense is committed in the officer's presence, usually no single factor alone is controlling.
 - c. Therefore, the totality of circumstances surrounding the arrest is of the greatest importance. Each officer should be aware of the following circumstances that courts consider when assessing whether there was sufficient probable cause in making a lawful arrest:
 - (1) direct observations of the police officer;
 - (2) knowledge of the prior criminal record or criminal activity of the person arrested;
 - (3) flight accompanied by other factors;
 - (4) evasive answers and/or conflicting stories;
 - (5) time of day or night;
 - (6) history of criminal activity in the particular area;
 - (7) experience of the officer; and
 - (8) reliable hearsay.
6. At the time of arrest, a search may be conducted. This search must be limited in scope to the area within the *immediate control* of the suspect and must be conducted contemporaneously

with the arrest. Immediate control means that area from which the suspect might gain control of a weapon or destructible evidence.

B. 1.2.5 (M) Arrests With a Warrant

1. An arrest warrant issued pursuant to a criminal complaint must be founded upon probable cause supported by oath or affirmation, but it is not necessary to recite the facts that constitute probable cause in the complaint.
2. An arrest warrant may be executed in any place within the Commonwealth.
3. The warrant must be obtained from the proper authority and must be signed by the authorized court official issuing it (M.G.L. c. 276, § 2A). The following judicial officers have the statutory authority to issue arrest warrants:
 - a. Justices of the Supreme Judicial Court, the Superior Court, and the District Court Departments; and
 - b. a Clerk/Magistrate, Assistant Clerk/Magistrate, Temporary Clerk/Magistrate, or Temporary Assistant Clerk/Magistrate of a District Court Department.
4. Prior to serving an arrest warrant, an officer should, when practical, ask the Emergency Communications Department to confirm that all information has been reviewed and is accurate:
 - a. a court of competent jurisdiction and authority has issued it;
 - b. it clearly names and describes the person to be arrested or, if their name is unknown, any name or description by which they can be identified with reasonable certainty; a so-called *John Doe* warrant without further satisfactory and sufficient description is unlawful and void;
 - c. the officer is authorized to serve it;
 - d. it clearly describes the offense for which the arrest is to be made; and the warrant shall recite the substance of the offense charged and it shall command that the defendant be arrested and brought before the court.
5. A person arrested on a warrant, or otherwise taken into custody by a police officer, has a right to know the true grounds for such arrest.
 - a. The officer need not have the warrant in their possession at the time of arrest; however, if practical, upon request the officer should immediately advise the defendant of the charges contained within the warrant.
 - b. Upon request, the arresting officer or booking officer will show the computer printout of the warrant to the defendant while being booked at the police station.
 - c. If the officer does not then know of the offense charged, they shall inform the defendant thereof within a reasonable time after the arrest.

6. The ECD is responsible for making sure that the warrant has had a *locate* placed against it within the Criminal Justice Information System and the Automated Warrant Management System.
7. When a person subject to a warrant issued by another county is arrested, they shall be brought before the Cambridge District Court pending dispensation.
8. A person who is the subject of an out-of-state warrant may not be arrested in Massachusetts on that warrant unless the charge is punishable by more than 1 year in jail. Rather, a warrantless arrest shall be made on a Massachusetts Fugitive From Justice charge. (M.G.L. c. 276, § 20B authorizes a Massachusetts officer to arrest a fugitive. The officer must have reasonable information that the accused stands charged in another state with a crime punishable by imprisonment for a term exceeding one year.)

C. 1.2.5 (M) Arrests Without a Warrant

1. An arrest without a warrant may be lawfully made in the following circumstances.
 - a. A felony committed in the officer's presence or when the officer has probable cause to believe that a felony has been committed.
 - b. A misdemeanor committed in the officer's presence and causing or threatening to cause a breach of the peace which is continuing or only briefly interrupted.
 - c. A misdemeanor not amounting to a breach of the peace committed in the officer's presence when such arrest is authorized by statute.
 - d. Certain misdemeanors for which arrest is allowed even though such misdemeanors were not committed in the officer's presence.

D. Extra-Territorial Arrest

1. Generally, the power to arrest ceases at the boundaries of the officer's city or town. However, there are four instances in which an officer may make *extra-territorial* arrests, that is, arrests outside the limits of that officer's city or town.
 - a. An officer may on *fresh and continued pursuit* pursue and arrest an offender in any other city or town in Massachusetts if:
 - (1) the offense is one for which a warrantless arrest is authorized;
 - (2) the offense was committed in the officer's presence; and
 - (3) the offense was committed in the officer's jurisdiction.
2. If there is a mutual aid agreement in effect between the officer's city or town and the city or town to which the officer has been assigned under the mutual aid agreement, the officer may exercise the same authority in such city or town as they exercise in their own city or town.
3. When a police officer makes a warrantless arrest outside their jurisdiction, and not in fresh and continuous pursuit of a suspect, then they act as a private citizen, and the arrest will be

held valid only if the private citizen would be justified in making the arrest under the circumstances.

- a. Requirements for a citizen's arrest are relaxed in the case of arrests by police officers acting outside their jurisdiction, in which case officers need only have probable cause to believe that a felony has been committed and that the suspect has committed it.
 - b. Except where exigent circumstances require immediate intervention by the officer, such as a high risk to public health and safety, it is recommended that officers contact the police department having jurisdiction for assistance.
4. An officer may, on fresh pursuit, pursue and arrest a suspect who the officer has probable cause to believe has committed a felony in Massachusetts and fled to another state, if that other state has in force similar interstate felony fresh pursuit laws. New York and all New England states have such laws.
 5. Transferred authority under M.G.L. c. 268, § 24 applies to a breach of the peace or civil motor vehicle infractions that threaten public safety.
 6. Requisitioned authority under M.G.L. c. 41, § 99 confers police powers to officers responding to a call for assistance in another jurisdiction.

E. Arrests in a Dwelling

1. To execute an arrest warrant, police officers may enter the dwelling of the person named in the warrant.
 - a. An officer may enter a suspect's home to serve an arrest warrant without obtaining a search warrant, provided there is a reasonable suspicion to believe that the suspect is there.
 - b. To serve an arrest warrant on private property, police officers must first knock and announce their authority and purpose, unless the warrant issued is a *No Knock and Announce Warrant*, and wait a reasonable period to be admitted.
 - c. Once a reasonable time has passed and the officers have not been voluntarily admitted and the officers have reasonable suspicion to believe that the wanted person is on the premises, officers may use whatever force is reasonably necessary to gain entrance.
 - (1) The officer should first assess whether it is prudent to force entry into a private dwelling, based upon various factors. Based on the totality of the circumstances, officers may only use that amount of force that is reasonable and proportionate to accomplish the lawful entry.
 - (2) Further, officers shall seek the approval of a supervisor prior to resorting to forcible entry into a dwelling, if possible.
 - d. Police officers must knock, announce their identity, and state their purpose unless the circumstances justify dispensing with one or all of these requirements.

- (1) If the police officers reasonably believe that announcing their presence and purpose will endanger themselves or others, they may dispense with the announcement of authority and purpose.
 - (i) In such cases, they may attempt to deceive the suspect into voluntarily opening the door, or gain entrance by a ruse, if this will result in a safe and successful apprehension with less destruction of property or risk of harm to persons.
2. Police officers may serve an arrest warrant at the dwelling of a party not named in the warrant. If the police seek to arrest a person in someone else's dwelling they may do so:
 - a. if lawful consent to enter is granted by the occupant of the dwelling;
 - b. if exigent circumstances are present which excuse the failure to obtain a search warrant; or
 - c. if consent is not obtained, and if exigent circumstances do not exist, police officers must obtain a search warrant before entering a third party's residence to execute an arrest warrant for a defendant who is inside.
3. The following exigent or emergency circumstances may excuse the failure to obtain a warrant before entering a dwelling to make an arrest.
 - a. The defendant is charged with a crime of violence.
 - b. There is reason to believe that the suspect is armed, either based on the nature of the crime charged or independent information.
 - c. Probable cause exists that the suspect committed a felony, and there is strong reason to believe the suspect is in the dwelling.
 - d. There is a strong likelihood that the suspect would escape if not apprehended immediately.
 - e. Whether the entry can be made peaceably.
 - f. Whether the entry would be in the nighttime or could be made in the daytime when clerk/magistrates are more readily available.
4. With regard to making a warrantless arrest in a dwelling, police officer should first determine whether a warrantless entry and arrest is allowed by law. When officers seek to make an entry into and arrest in a dwelling the following standards apply.
 - a. If the arrest pursuit was set in motion in public, the officer may make a hot pursuit warrantless entry into a private dwelling if the suspect runs into the dwelling; hot pursuit may involve felonies and jailable misdemeanors.
 - b. If a police officer seeks to arrest a person in that person's own dwelling, they may do so:
 - (1) if lawful consent to enter is granted;

- (2) if exigent circumstances are present which excuse the failure to obtain an arrest warrant; or
 - (3) absent lawful consent to enter or exigent circumstances, police officers must obtain an arrest warrant.
 - c. If a police officer seeks to arrest a person in someone else's dwelling, they may do so:
 - (1) if lawful consent to enter is granted; or
 - (2) if exigent circumstances are present which excuse the failure to obtain a search warrant;
 - (3) otherwise, they must obtain a search warrant to enter the premises and an arrest warrant for the suspect.
 - 5. Generally, no arrest warrant or search warrant is required to arrest a person who is in a public place.
- F. 1.2.6 (M) Alternatives to Arrest
- 1. In some cases, officers may determine that alternatives to arrest may be more effective than making an arrest. These alternatives include citations, summonses, informal resolutions, warnings, and referrals to other agencies. Circumstances where alternatives to arrest may be appropriate include the following.
 - a. When an arrest could aggravate community conflict or possibly precipitate a serious disorder.
 - b. When there is a greater priority to respond to a more serious crime or to an urgent public emergency.
 - c. In neighborhood quarrels, noisy parties, landlord-tenant disputes, and minor disturbances of the peace where no serious crime has been committed and the officer can successfully act as a mediator.
 - d. In minor juvenile offenses where documented diversion and consultation with the parents can avoid a court appearance.
 - e. In other minor offenses where a summons can effectively accomplish the intended purpose.
 - f. Minor motor vehicle offenses.
- G. 1.2.7 (M) Use of Discretion
- 1. Although police officers must always be guided by the intent and purpose of the law, there are limited circumstances in the discretion of the officer involved when the public interest would be better served by not making an arrest, even though there is legal justification for such action.
 - 2. A National Institute of Justice paper published in 1999 discusses discretion in the following way. "We now understand that telling officers only what they cannot do, which is so typical

of police manuals and rules and regulations, has not improved the quality of policing. We know as well that the work world of police is too complex to tell officers exactly what they should do in every circumstance. The only alternative left for the management of most police work is to teach officers how to think about what they should do, do it, and then talk about it, so that they improve over time and share their emerging values, knowledge, and skills with their colleagues and the profession.”

3. The department Policies and Procedures manual provides its members with the limits of discretion within their legal authority and provides the framework for learning to police according to the vision of legitimate authority and procedural justice set forth by the Police Commissioner.
4. Discretion, then, is the judicious use of legal authority by police in their actions thereby earning legitimate authority from the community members who they serve.
5. In Massachusetts, in cases of domestic violence, the preferred response is arrest of the dominant aggressor; in cases of violations of restraining orders and/or harassment prevention orders the officer shall arrest.

H. Procedures Following an Arrest

1. Once an arrest is made, it is the responsibility of the arresting officer or officers to follow procedures to reduce the risk of arrestees injuring themselves or others and of escape or disposal of evidence.
2. As soon as practical after effectuating an arrest, a search incident to arrest shall be conducted in accordance with departmental policy.
3. At the time of arrest, unnecessary conversation should be avoided and any orders or statements to the person arrested should be clear and brief.
4. Persons arrested shall be given the *Miranda* Warnings as soon as possible and prior to interrogation or any questioning likely to elicit an incriminating response, but only if the suspect is in custody and subjected to interrogation.
 - a. The warnings shall be read from a card or other permanent record, which shall be issued by the department, for the following reasons.
 - (1) The card itself can later be introduced as evidence.
 - (2) Officers have tangible proof that they have not relied solely on memory.
 - (3) The suspect can also be permitted to read the card.
 - b. Each officer giving the warning shall ask and verify that the person arrested has heard and understood the warnings so given.
 - c. No questioning of arrested persons shall take place until these warnings have been given. However, if suspects freely choose to divulge information without questioning, there is no violation of rights simply because they were not given these warnings. There is no

requirement that an officer prevent suspects from continuing to talk. Whenever statements are made voluntarily and with no compulsion, such statements shall be noted and incorporated as part of the officer's official report. However, if an officer wishes to gain further information through questioning, the warnings shall be given before pursuing the matter further.

5. Persons arrested shall be handcuffed behind their back unless extenuating circumstances exist, double locked, and promptly and safely transported to the police station in accordance with departmental policy on Transporting and Processing Detainees.
6. Upon arrival at the police station, persons arrested shall be booked and processed in accordance with departmental policy including procedures for fingerprinting and photographing. If a defendant refuses to answer booking questions, the police may properly place the defendant in a cell without a phone call or bail hearing until the defendant is ready to cooperate.
7. Arresting officers will make a full and complete report of any arrests made, with or without warrants, in accordance with standard departmental procedures.

I. Off-Duty Arrests

1. An off-duty officer not within the department's legal jurisdiction, has only those rights of arrest as any other citizen of the Commonwealth. The following guidelines are applicable to off-duty officers within the legal jurisdiction of the department.
2. Off-duty arrests are permitted when an officer is within the legal jurisdiction of this police department and when all of the following three circumstances are present.
 - a. There is an immediate need for the prevention of a crime or apprehension of a suspect.
 - b. The arresting officer has in his or her possession valid department-issued police identification.
 - c. There exists a likelihood that the delay created by calling for and awaiting the arrival of on duty personnel would:
 - (1) allow the subject to escape or remain unknown;
 - (2) allow further criminal activity; or
 - (3) allow the situation to escalate to a more serious degree than if the arrest was to be made immediately.
3. Off duty officers shall refrain from enforcing minor violations, such as parking infractions or minor motor vehicle offenses, unless the officer has reason to believe that the violation may progress to a more serious crime or lead to personal injury.
4. Off duty officers shall not make arrests in situations in which they are personally involved. *Personally involved* for the purposes of this policy shall mean that the officer was involved with the suspect in a non-criminal dispute or other matter which escalates to the point

- where a crime has been committed, and an arrest can be made. In these incidents, on duty officers shall assess the situation and make any decisions on further legal action. This does not apply to those instances where the police officer is the victim of a crime.
5. While off duty, it is the responsibility of each member of this department to be alert to any suspected or observed criminal activity and report that activity to on-duty officers or to take action as authorized in this directive.
 6. When an off-duty arrest becomes necessary, the arresting officer shall abide by all department regulations concerning arrests. The officer shall use only that force necessary to detain the subject securely and then shall contact the police station for assistance. The officer will be responsible for filing a complete and comprehensive police report on the incident immediately and shall notify the on-duty shift commander of the circumstances surrounding the arrest.
 7. When engaged in secondary off-duty employment, other than private paid details, of a non-police nature, officers are prohibited from making arrests that are only in furtherance of the interests of the private employer. All secondary off-duty employment requests must be approved by the Police Commissioner before any such work is conducted.

