



City of Racine Police Department
Policy and Procedure

Number: 1917

Subject: Criminal Trespass Complaints		
Date Issued: 11/4/16	Date Revised: 11/4/16	Revision Number: 1

POLICY

Wis. Stat. § 175.403 (2) states that each law enforcement agency shall have a written policy regarding the investigation of complaints alleging a violation of Wis. State § 943.14 (criminal trespass). The Racine Police Department will respond to criminal trespass complaints and is required to remove the person from a dwelling if probable cause to arrest a person for a violation of Wis. State § 943.14 exists.

DEFINITIONS

Tenant – Someone who has a signed lease, a contract between the landlord and the tenant that has a fixed start and end date.

Periodic Tenant – Someone who holds possession of a property without a valid lease, and who pays rent on a periodic basis. The period can be day-to-day, week-to-week, month-to-month, year-to-year, or any other recurring interval of time. The period is determined by the intent of the parties under the circumstances, and the payment of rent normally shows that intent.

Tenant at Will – Someone who holds the property without a valid lease and in circumstances not involving the periodic payment of rent, but has the permission of the landlord.

PROCEDURE

When investigation of a criminal trespass complaint is required, the following steps shall be taken:

MEMBER

1. A person will not be removed from a premise in a landlord – tenant dispute or a dispute between residents, unless:
 - a. A complaint alleging a violation of the criminal trespass statute is received and there is probable cause that the person to be removed is in violation of the criminal trespass statute.
 - b. Probable cause to each element of the criminal trespass statute must be established. Probable cause is established when the person present:
 - 1) Is not a tenant, periodic tenant, or a tenant at will as defined by Wis. Stat. §704.01(1), Wis. Stat. §704.01(2), Wis. Stat. §704.01(5).
 - 2) Entered a premise or remains on a premise without consent of a tenant or landlord.
 - 3) That entry or remaining on a premise is tending to create or provoke a breach of peace.
2. If probable cause exists, you are required to remove the person from the premises; discretion will be used whether or not an arrest will be made.
3. Failure to adhere to this policy will result in exposure to liability for the Department, as well as, the member.
 - a. The member should take note that:
 - 1) A person may be a tenant with legal rights to remain on the premises even if that person is not named in a written rental agreement.

- 2) A person may be lawfully present on the premises because the person is an allowable guest.
- 3) A person should not be removed unless the unlawful entering or remaining on the premises tends to create or provoke a breach of the peace.

RELATED PROCEDURES

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RELATED STATUTES

§ 175.403 (2) § 943.14
§704.01(1) §704.01(2)
§704.01(5)