



CITY OF MADISON POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE



Arrest, Incarceration, and Bail - Adults

Eff. Date 04/02/2018

Arrest Authority

The basic authority for police officers to make arrests derives from the Wisconsin Statute 62.09(13) which makes it a duty for a peace officer to arrest with or without a warrant and with reasonable diligence to take before the court every person found¹ in the city engaged in any disturbance of the peace or violating any law of the state or ordinance of such city.

This authority to arrest is further broadened by State Statute 968.07, which states:

1. A law enforcement officer may arrest a person when the officer:
 - a. has a warrant commanding that such person be arrested; or
 - b. believes, on reasonable grounds,² that a warrant for the person's arrest has been issued in this state; or
 - c. believes, on reasonable grounds, that a felony warrant for the person's arrest has been issued in another state; or
 - d. has reasonable grounds to believe that the person is committing or has committed a crime.³
2. A law enforcement officer making a lawful arrest may command the aid of any person, and such person shall have the same power as that of the law enforcement officer.

Enforcement Action Outside of Jurisdiction

Wis. Statute 175.40 empowers a law enforcement officer to take enforcement actions outside of his or her territorial jurisdiction, within the state of Wisconsin, under certain circumstances. This policy outlines the circumstances under which Madison Police officers may intervene while outside of the territorial jurisdiction of the City of Madison and the actions that may be taken.

This policy applies only to those Madison Police officers are on duty at the time the incident. This policy does not apply to officers who are off-duty or acting under a mutual aid request.

1. Madison Police officers shall take intervention or enforcement action when:
 - a. The officer is on duty and on official business outside of the City of Madison but within the State of Wisconsin; and
 - b. The officer would be authorized to take action if the incident occurred in the City of Madison; and
 - c. The officer is acting in response to:
 - i. An emergency situation that poses a significant threat to life or of bodily harm; or
 - ii. An act the officer reasonably believes is a felony.
2. Madison Police officers may take enforcement action including making arrests and issuing citations:
 - a. On the entire width of boundary highways and on the entire area of boundary intersections for any violation of either the state criminal code or any City of Madison ordinance.

¹ "Found" or "in the officer's presence" means when officers receive knowledge of the commission of an offense in their presence through any of their senses, or by inferences properly drawn from the testimony of the senses. Usually the officer sees or hears, or both. Following learning that an offense is being committed, the officer must still make good use of the sense of sight in order to identify the specific person committing the offense, arrest the guilty person and identify same at a later date in court.

² "Reasonable grounds" and "probable cause" are used interchangeably and justify an arrest without a warrant when: an officer in good faith believes that a crime has been committed; that the person in question committed it; and when the officer's belief is based on grounds which would induce an ordinarily prudent and cautious person, under the circumstances, to believe likewise. Mere "suspicion" alone is never sufficient to authorize an arrest without a warrant.

³ "Crime" is conduct which is prohibited by State law and punishable by fine or imprisonment or both. Conduct punishable only by forfeiture is not a crime.

- b. When in fresh pursuit of a person suspected of having committed a violation of either the state criminal code or any City of Madison ordinance in the City of Madison.
3. Determining appropriate enforcement action.
 - a. This policy authorizes Madison Police Department (MPD) officers to act as if they were within the territorial jurisdiction of the City of Madison.
 - b. When acting under this policy, the officer shall comply with all MPD regulations, policies, and procedures.
 - c. The officer shall consider a number of factors when determining the nature and extent of intervention action to be taken. These factors include, but are not limited to:
 - i. The nature and particular circumstances of the situation.
 - ii. The level of threat presented.
 - iii. Availability of appropriate equipment and personnel.
 - iv. Officer-Subject factors based on a tactical evaluation.
 - v. The officer's assignment and whether taking action will significantly compromise that assignment.
 - vi. Other tactical considerations.
4. Range of appropriate action.
 - a. In the case of an emergency situation that poses a significant threat to life or of bodily harm, an officer shall take immediate intervention action to prevent such harm or stabilize the situation, or both. The action may include:
 - i. Any combination of stopping, detaining, or arresting a suspect;
 - ii. The use of force sufficient to control the situation and in compliance with MPD policies;
 - iii. Rendering aid and assistance to victims;
 - iv. Identifying and interviewing victims, witnesses, and suspects;
 - v. Assisting local law enforcement agency as requested; or
 - vi. Taking other action that would be authorized under the same circumstances if the events had occurred in the City of Madison.
 - b. When encountering a situation that the officer reasonably believes constitutes a felony, he or she may:
 - i. Take immediate intervention action as outlined above; or
 - ii. Notify a local law enforcement agency for appropriate intervention.
 - (1) In determining the appropriate response, the officer shall consider the immediacy and level of threat presented by the crime.
 - c. Under this guideline, an officer may elect to report the incident to local authorities and serve as a witness in a property crime, or the officer may elect to intervene with appropriate force and make an arrest in the case of a personal crime that poses a significant threat to life or of bodily harm.
 - d. An officer is not required to take intervention action, even in the case of violent felonies, when doing so will either compromise the officer's current assignment or when circumstances present an unreasonable risk of escape of prisoners in the officer's custody. In such cases, the officer shall, at a minimum, immediately notify local authorities and take whatever action possible while maintaining the security of any prisoners.
 - e. When an officer takes action in a circumstance that poses a significant threat to life or of bodily harm, he or she shall:
 - i. Notify the local law enforcement authority as soon as practical;
 - ii. Assist and cooperate with local law enforcement agencies;
 - iii. Notify his or her supervisor, or the OIC as soon as practical; and
 - iv. Upon return to the City of Madison, complete a detailed report of the incident and action taken.
 - f. When in fresh pursuit outside of the City of Madison for an offense committed in the City, an officer may take action as if the officer were in the City. In doing so, the officer shall:
 - i. Comply with MPD regulations, policies, and procedures;
 - ii. Notify the local law enforcement agency and assist that agency in the investigation of any offenses that occur in that jurisdiction;
 - iii. Notify his or her supervisor or the OIC; and
 - iv. Complete reports of the incident as required by MPD policy.

- g. When acting on boundary highways or in boundary intersections, an officer is not required to make any notification or take action other than that which is required if the incident occurred entirely within the City. This does not prevent the officer from informing the adjoining jurisdiction as a matter of professional courtesy.

Arrest Screening/Bail

It is the policy of the MPD to have the Officer-in-Charge (OIC) or a designee screen each arrest before the person is incarcerated.

In view of the fact that the purpose of an arrest is to bring the arrested person before the court to answer to a violation, detention in jail until the next session of court is a lawful act by a police officer. However, as a matter of normal practice, certain procedures have been established that in some cases permit the release of the prisoner before the next session of court.

Bail can be set only by a judge and may be set by a judge endorsing the amount of bail on a warrant at the time of issuance, at the arraignment in court, or by endorsing and issuing a bail schedule in advance.

Felonies

All persons arrested on felony charges will be incarcerated and with reasonable diligence be taken before the court where only a judge may establish bail.

State Statute Misdemeanor Citations

An officer arresting a person for a misdemeanor charge may elect to incarcerate the arrested person in the Dane County Jail, or may issue a misdemeanor citation without transporting the person to the Dane County Jail or to Patrol. The arresting officer shall issue a misdemeanor citation only if the following criteria apply:

1. The arrested person is positively identified.
2. The arrested person currently resides in Wisconsin.
3. It appears the arrested person will not continue the behavior forming the basis for the charge.
4. The arrested person poses no apparent threat to persons or property.
5. The arrested person does not have a history of failing to appear at court dates for previous offenses.
6. The offense does not fall under the definition of domestic abuse, as defined by Sec. 968.075(1)(a) Wis. Stats.

If the above criteria apply, the arresting officer may also convey the arrested person to the Dane County Jail to be booked and released. If the above criteria do not apply, the arrested person will be incarcerated in the Dane County Jail. Any deviations from this policy must be approved by a supervisor.

If the arrested person refuses to sign the citation, the officer shall inform the person of the court date and time, and that court appearance is mandatory. The officer shall document these facts in their report.

City Ordinance Violations (Non-Traffic)

CITATION

Most City Ordinance violations are processed by the issuance of a municipal citation. Officers shall obtain a case number for each incident resulting in the issuance of a citation. The deposit amounts to be used have been established by the Common Council and are indicated by ordinance number in the bail schedule pages for City Ordinance violations.

In instances where a citation is appropriate, officers should, in most cases, release the person after the citation has been issued. An incident report must be completed when the citation resulted from a citizen's complaint or when there is not enough room on the citation to describe the circumstances of the violation.

PHYSICAL ARREST

A custodial arrest of a person found in violation of a City Ordinance is appropriate when a citation has been issued, but:

1. The person involved refuses to cease behavior which is in violation of ordinance; or
2. The officer cannot positively identify the violator; or
3. The violator has no permanent address; or
4. The violator is an out-of-state resident.

Traffic Violations (City Ordinance or State Statute)

If a person is arrested without a warrant for the violation of a traffic regulation, the arresting officer shall issue a uniform traffic citation. In most cases, the arrested person should then be released.

A custodial arrest for a traffic violation is appropriate when a citation has been issued, but:

1. The officer cannot positively identify the violator; or
2. The violator has no permanent address; or
3. The violator is an out-of-state resident; or
4. The offense is OMVWI related.

Any person physically arrested for a traffic violation, pursuant to this policy, may be conveyed to Patrol or to the Dane County Jail. There are times when the arrested person is taken to a medical facility (for a blood draw) and then released to a responsible party from the hospital.

The arrested person shall be released if they:

1. Make a deposit under Sec. 345.26 (driver posts on the citation); or
2. Comply with Sec. 345.24 (Officer completes the Release to a Responsible Party form).

A traffic violator who presents a guaranteed bond certificate (as provided for in Sec. 345.61) shall be released from the scene of the stop, provided that the card is not expired, the bail is covered by the guaranteed amount, and the charge is not listed as an exception on the card.

Traffic Warrant Service Guidelines

Persons served warrants who are unable to post bail or who are served bench warrants will be processed in accordance with MPD guidelines, including required reports and forms.

1. When a possible traffic or ordinance warrant contact is made, always check with the Data Terminal Operator to ascertain if the warrant is active.
2. When Court Services personnel are unavailable, the opportunity to post required bail will be afforded. A receipt will be issued for all bail collected. If subject is unable to post, jail booking is required.
3. If bail is posted on a warrant and defendant wishes a court date, the officer will contact the court officer for the next available court date within two working days. Receipt should state that defendant wishes to appear in court.
4. Advise the Data Terminal Operator of identity of person served with the warrant to ensure removal from the MAPS Wanted Person File.

WHEN SERVING A WARRANT PROCEDURE

1. Read warrant to defendant.

2. If paying, place money, receipt, warrant, and jacket in Patrol ticket slot.
3. If defendant is taken to the Public Safety Building, place warrant and jacket in warrant tray.

PROCESSING PHYSICALLY ARRESTED ADULTS

1. Appropriate Booking Forms must be completed prior to processing an arrested person into jail or Juvenile Reception Center (JRC).
2. Prior to transporting an arrested person to jail or JRC, officers shall search the person as a routine security measure to ensure that weapons/contraband are not introduced into the jail environment.
3. When processing an arrested adult or 17 year old:
 - a. Conveyance should be made directly to the Dane County Jail UNLESS the arrest is one which requires additional processing, e.g., an intoximeter, an interrogation, a strip search, to obtain a City of Madison arrest warrant, an extended consultation with OIC reviewing charges.
 - b. Arresting officer should contact OIC via the telephone to approve charges and establish bail.
 - c. The OIC will confirm that the arrested person has been asked medical condition questions, and where appropriate, direct officers to convey the prisoner to a medical facility for attention and medical release.
 - d. The arresting officer will ensure completion of booking forms to include specific charges and established bail if approved and will present this to jailers along with the completed Probable Cause Affidavit.
 - e. When an arrested person must be medically treated prior to incarceration, officers must complete a Dane County Jail medical clearance form and attach the same to their report. After returning from a medical facility, the arrested person is conveyed to the Dane County Jail.
 - f. When an arrested person is taken to a detoxification facility prior to being taken to jail, the report shall be completed prior to the end of shift. The Booking Forms and PC Affidavit will be placed in the locked file cabinet at Detox. Officers shall complete the release notification form and leave with the nurse at Detox.
 - g. Copies of the Booking Forms received at the jail are to be returned to the Patrol Counter for transfer to Data Control.
 - h. Seventeen year olds arrested only for ordinance violations shall not be incarcerated in the Dane County Jail.
 - i. Arresting officers will ensure the appropriate entries are made into the SharePoint Arrest log.
 - j. In the event that SharePoint is unavailable, the arresting officer will obtain a paper form from the OIC and will complete this paper form. The OIC will then forward that paper form to Records.
4. All reports dealing with an arrested person must be done prior to going back into service. (Exception: OIC approval).

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