

<b>New Berlin Police Department Directives Manual</b>		<b>Directive Title: Arrests</b>			
<b>Issue Date:</b> 12/30/14	<b>Publish Date:</b> 04/28/20	<b>Next Review Date:</b> 04/01/21	<b>Total Pages:</b> Page 1 of 5	<b>Directive Number:</b> 1703	<b>WILEAG Standards:</b> 1.7.4, 1.7.5

### Purpose

This directive outlines guidelines to assist officers when making arrests both with and without a warrant, steps to ensure that the rights of an arrestee are guaranteed and the necessary reports that must be completed after an arrest. This directive also provides guidance to officers on the alternatives that are available to arrest.

### Policy

It is the policy of this department that all arrests made by department personnel shall be conducted professionally and in accordance with established legal principles and training. In furtherance of this policy, all officers of this department are expected to be aware of, understand, and follow the laws governing arrest.

### Definitions

1. Arrest: Taking a person into custody.
2. Arrest Warrant: A written order issued by a judge that commands a law enforcement officer to place a person under arrest.
3. Probable Cause for Arrest: That quantum of evidence that would lead a reasonable officer to believe that a person is committing, has committed, or will commit a crime.
4. Temporary Questioning without Arrest: After having identified himself or herself as a law enforcement officer, a law enforcement officer may stop a person in a public place for a reasonable period of time when the officer reasonably suspects that such person is committing, is about to commit or has committed a crime, and may demand the name and address of the person and an explanation of the person's conduct. Such detention and temporary questioning shall be conducted in the vicinity where the person was stopped.
5. Reasonable Suspicion: A particularized and objective basis, supported by specific and articulable facts, for suspecting a person of criminal activity; the degree of suspicion of criminal activity that justifies temporary questioning without an arrest.
6. Citizen Contact: An encounter between a police officer and a citizen that may be initiated by the officer for any reason and during which the citizen is free to leave at any time.
7. Exigent Circumstances: Whenever an officer has either probable cause to arrest or search, and one of the following circumstances are present, the officer may enter a home without a warrant:
  - a. Destruction of Evidence
  - b. A threat to the safety of the suspect or some other person
  - c. A likelihood that the suspect may flee
  - d. Hot pursuit.

### Arrests Generally

In order for an arrest to occur, an officer must have the intent to take a person into custody and an understanding by the person arrested that s/he is in custody. Officers will only make arrests when they have first established probable cause, or with the knowledge that an arrest warrant exists. When making an arrest, an officer should:

<b>New Berlin Police Department Directives Manual</b>		<b>Directive Title: Arrests</b>			
<b>Issue Date:</b> 12/30/14	<b>Publish Date:</b> 04/28/20	<b>Next Review Date:</b> 04/01/21	<b>Total Pages:</b> Page 2 of 5	<b>Directive Number:</b> 1703	<b>WILEAG Standards:</b> 1.7.4, 1.7.5

1. Identify him/herself as a police officer. (If it is apparent by the wearing of a uniform or other means that the person making the arrest is a police officer, no further identification is necessary.)
2. Inform the subject that s/he is under arrest.
3. Restrict the arrested subject's movements as required, using only force necessary to overcome any resistance by the person being arrested.

**Arrests with a Warrant:**

An officer's authority to arrest a person based on a warrant is defined by Wisconsin Statute 968.07, which states:

1. A law enforcement officer may arrest a person when:
  - a. The law enforcement officer has a warrant commanding such person be arrested;
  - b. The law enforcement officer has reasonable grounds to believe that a warrant has been issued for the person in this state;
  - c. The law enforcement officer has reasonable grounds to believe that a felony warrant has been issued for the person in another state;
  - d. The law enforcement officer has reasonable grounds to believe that the person is committing, is about to commit, or has committed a crime.
2. Prior to arresting a person based on a warrant, officers will confirm the warrant status to ensure the warrant is still active.

**Arrests without a Warrant:**

An officer may arrest a person without a warrant if the officer has probable cause to believe that the person is committing, has committed, or will commit a crime.

Additionally, Wisconsin Statute 345.22 gives officers the authority to arrest a person without a warrant if the officer has reasonable grounds (same as probable cause) to believe that a person is violating or has violated a traffic regulation.

Wisconsin Statute 800.02(6) gives officers the authority to arrest a person without a warrant if the officer has reasonable grounds (same as probable cause) to believe that a person is violating or has violated a municipal ordinance.

**[ACT 79 Guidelines](#)**

1. Defendant must be on probation or parole after 12/14/13.
2. Defendant must be on probation or parole for any felony or any misdemeanor under chapters 940, 948, or 961.
3. Law enforcement must have reasonable suspicion the subject is or has committed a crime OR a violation of their conditions of probation or release.
4. Law enforcement may search the person, their residence, or the property under their control. Law enforcement must, as soon as practicable, notify the DOC of the search. This is done via email with the subject line of "Act 79 Search Notification." The first number in the five digit agent code on the subject's DOC file corresponds to the region where the email should be sent. (See Act 79 Search document for Region listings)

<b>New Berlin Police Department Directives Manual</b>		<b>Directive Title: Arrests</b>			
<b>Issue Date:</b> 12/30/14	<b>Publish Date:</b> 04/28/20	<b>Next Review Date:</b> 04/01/21	<b>Total Pages:</b> Page 3 of 5	<b>Directive Number:</b> 1703	<b>WILEAG Standards:</b> 1.7.4, 1.7.5

### **Entering a Home to Effect an Arrest**

Officer must have consent to enter a home to effect the arrest of any person. If officers are not able to gain consent from a person with the proper authority to grant consent to enter the home, they may still be able to enter without consent. Officers must first establish that there is indeed probable cause to arrest a person and an exigent circumstance exists allowing the officer to enter the home without a warrant or consent. Officers armed with an arrest warrant for a criminal offense may enter a residence to effectuate the arrest warrant without consent if there is probable cause to believe the subject resides at the residence and the subject is present when officers make entry to the residence.

Officers should make every effort to consult with a supervisor before making a warrantless entry to a home based on exigent circumstances. The department realizes and understands this will not always be possible. If forcible entry is made to a home to effect an arrest, officers will:

1. Contact a supervisor to advise him/her of the forcible entry.
2. Locate and control all persons on the property.
3. Photograph any damage occurring as a result of the forced entry.
4. Document in a report why forced entry was needed and describe any damage.

### **Restraint of Arrestee**

All arrested persons shall be handcuffed behind their back. The officer will check the handcuffs for proper placement and tightness and will safety lock the handcuffs. In instances where a medical or physical problem precludes an officer from handcuffing a person behind his/her back, officers may handcuff the person in front, securing the handcuffs to a Ripp Restraint transport belt. Officers should obtain permission from a supervisor before using this option.

### **Initial Medical Assessment**

Officers who arrest someone shall perform an Initial Medical Assessment on the arrestee. Initial Medical Assessments include the following:

1. Determine level of consciousness, using verbal or physical stimulus.
2. Check airway, breathing, and circulation.
3. Perform a body check for injuries—severe bleeding, broken bones, etc.
4. Provide any necessary treatment to your level of training and, if needed (or the subject requests it), activate the emergency medical system.
5. Continue to monitor and remain with the subject until he or she is turned over to someone of equal or greater responsibility. Find out if there is a need for long-term monitoring of the subject because of special medical or mental health needs.

<b>New Berlin Police Department Directives Manual</b>		<b>Directive Title: Arrests</b>			

### Search Incident to Arrest

All arrestees will be searched incident to their arrest. If the arrest is associated with a vehicle, the officer may only search the vehicle incident to arrest if the arrestee is unsecured and within reaching distance of the passenger compartment of the vehicle at the time of the search, or the officer has reason to believe that the vehicle contains evidence of the offense of arrest. If the arrest occurs in a home, the officer may search the “lunge area” accessible to the arrestee incident to the arrest.

### Transportation of Arrestees

All arrestees shall be searched before being transported. If the arrestee was just searched incident to his/her arrest, this will suffice as a search before transport. If custody of an arrestee is transferred to another officer, that officer will search the arrestee before accepting custody.

Before an arrestee is transported, the area of the transporting vehicle will be searched for anything that may have been left behind by previous arrestees.

All arrestees transported in police vehicle must be safely restrained with seatbelts.

### Safeguarding Rights

Officers will make every effort to safeguard the Constitutional Rights of arrestees.

### Arrest Reports

Officers will complete an arrest report any time a person is arrested. The report will include completing all of the relevant information in the department’s record management software arrest module and a supplementary narrative that describes the circumstances of the arrest. The narrative should accurately document the probable cause that the officer established prior to making the arrest. Arrest reports will be reviewed and approved by a supervisor.

### Booking

Booking shall consist of Morpho touch, photographing and fingerprinting of arrestee in accordance with §165.84(1). DNA will be collected in accordance with Wisconsin §165.84(7)(ah) and procedure 11101.01 DNA Collection Procedures. Photographs will consist of a full frontal picture of the arrestee’s face, and a left and right profile. Fingerprinting will consist of gathering all of the finger and palm prints required by the fingerprint software.

Unless circumstances exist which prohibit booking, such as physical condition of the arrestee, all persons arrested for felonies will be booked at the department or jail. Officers wishing to forgo the booking process for a felony arrest must seek supervisory approval prior to releasing the arrestee.

<b>New Berlin Police Department Directives Manual</b>		<b>Directive Title: Arrests</b>			
<b>Issue Date:</b> 12/30/14	<b>Publish Date:</b> 04/28/20	<b>Next Review Date:</b> 04/01/21	<b>Total Pages:</b> Page 5 of 5	<b>Directive Number:</b> 1703	<b>WILEAG Standards:</b> 1.7.4, 1.7.5

Persons arrested for a misdemeanor or municipal ordinance should be brought to the department and booked unless a supervisor deems otherwise.

After a person has been booked, the officer should follow the Wisconsin Supreme Court guidelines for forfeiture and misdemeanor bail schedules which are found in the State of Wisconsin Bail Bond book.

A final disposition report will be prepared for each charge that a person is arrested for. The final disposition report will be handled in accordance with department procedures **1703.01**.

**Alternative to arrest**

Unless specifically prohibited by Wisconsin State Statute, officers may use discretion and have a number of alternatives to arrest available to them:

1. Issuance of citations and summonses.
2. Referrals.
3. Mediation.
4. Warning.

By Order of:   
 Jeffrey Hingiss Chief of Police