



# MILWAUKEE POLICE DEPARTMENT

## STANDARD OPERATING PROCEDURE

### 220 – ARREST AUTHORITY

**GENERAL ORDER:** 2021-XX  
**ISSUED:** August 4, 2021

**EFFECTIVE:** August 4, 2021

**REVIEWED/APPROVED BY:**  
Inspector Nicole Waldner  
**DATE:** May 26, 2021

**ACTION:** Amends General Order 2017-15 (April 24, 2017)

**WILEAG STANDARD(S):** 1.6.1, 1.7.2, 1.7.4, 1.7.5, 1.7.6

### ROLL CALL VERSION

**Contains only changes to current policy.  
For complete version of SOP, see SharePoint.**

### 220.05 POLICY

It is the policy of the Milwaukee Police Department that all arrests made by members both on or off duty shall be conducted professionally and in accordance with established legal principles **and MPD policies and procedures.**

### 220.10 DEFINITIONS

#### A. ARREST

Taking or detaining of a person by word or action into custody so as to subject their liberty to the actual control and will of the person making the arrest. There must exist the intent to take a person into custody and a corresponding understanding of by the person arrested that he or she is in "custody", although no formal declaration of arrest is required.

### 220.15 ON-DUTY ARRESTS AND PROCEDURE (WILEAG 1.6.1, 1.7.4)

#### A. PROCEDURES FOR ARRESTS

1. In order for an arrest to occur, ~~an officer must have the intent to take a person into custody and the person should have an understanding that he/she is arrested and is in custody~~ the subject must be physically restrained or alternatively must comply with the officer's directive. When making an arrest, an officer shall:
  - a. Identify him/herself as a police officer ~~in accordance with SOP 085.10(A). (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.)~~
3. Arrests without a warrant
  - b. An officer may enter a person's home to arrest a person without a warrant, when given permission by a person of "legal standing" or probable cause plus "exigent circumstances" must exist (exigent circumstances do not include minor traffic

offenses. *Welsh v. Wisconsin*). Exigent circumstances include:

4. When in pursuit of a fleeing subject for whom the police have probable cause to believe has committed a jailable (misdemeanor and/or felony) offense, an officer may enter a home without a warrant if he/she has probable cause to believe the subject is in the home. This hot pursuit exception is limited to a jailable (misdemeanor and/or felony) offense situation and to a chase scenario. Officers shall use discretion when employing this tactic as it may not always be the best practice, or the safest choice, to chase a fleeing subject into a home for a minor misdemeanor even though the entry would be lawful.

**Note: If exigent circumstances do not exist, it is necessary to obtain an arrest warrant or consent to enter the premises from someone authorized to give consent to make an arrest of a person in his/her own residence.**

(WILEAG 1.7.4.1, 1.7.4.2)

#### **220.20 DISCRETION (WILEAG 1.7.6)**

- A. Members are authorized to use discretion in their decision to arrest or not arrest except in situations where an arrest is required by Wisconsin state statute (e.g., domestic violence).
- BA. Members should use professional judgment by taking the following factors into consideration when deciding whether to arrest or not arrest a citizen.
- CB. Members shall not consider race, ethnicity, economic status, ethnicity, gender, or any other social status to determine the decision to arrest or not arrest.

#### **220.25 ALTERNATIVES TO ARREST (WILEAG 1.7.5)**

##### A. WARN AND ADVISE

1. Members may advise by use of a verbal warning for matters related to city ordinance violations. If the warning is related to a terry stop or traffic stop, members shall ensure they complete a Field Interview report and/or Contact Summary form in accordance with SOP 085 Citizen Contacts, Field Interviews, Search and Seizure.
2. Members shall advise by use of a traffic warning card (on TraCS) related to traffic violations. Members shall ensure they also complete a Contact Summary form in accordance with SOP 085 Citizen Contacts, Field Interviews, Search and Seizure.

**Note: Members shall not issue verbal warnings for traffic violations. Members may mail the traffic warning form to the violator with the permission of their supervisor if their department vehicle is not equipped with a mobile data computer (MDC), the member is experiencing a software/hardware malfunction (e.g., printer problems or the MDC is not operational), or in exigent circumstances (e.g., the**

member is preempted for a call for service).

### 220.30 OFF-DUTY ARRESTS AND AID

#### B. ARREST ~~LIMITATIONS~~ CONSIDERATIONS

6. The member shall abide by federal and state laws, as well as the Code of Conduct and department standard operating procedures.

#### C. RESPONSE TO ON-DUTY PERSONNEL

2. The off-duty member shall immediately verbally identify him or herself as an off-duty officer and comply with all the commands of the on-duty personnel. The off-duty member shall also ask for and wait for directions from the on-duty personnel (including the on-duty personnel requesting items like the off-duty member's badge and/or identification card).

**Note:** There have been a number of documented incidents of off-duty officers killed by on-duty officers who were unaware the individual was an off-duty officer.

A handwritten signature in black ink, appearing to read 'J.B.N.' with a long horizontal stroke extending to the right.

JEFFREY B. NORMAN  
ACTING CHIEF OF POLICE