



Lincoln Police Department

Standard Operating Procedures

Integrity, Competency, Fairness



Subject:	ARREST WITHOUT A WARRANT	Policy #	O-44
Effective Date:	May 22, 2025	Review Cycle:	2 Years
Distribution:	All Sworn Personnel	# of pages:	3
MLEAP:	7.03		
	<i>Rescinds All Previous Policies Related to This Current Policy</i>		
Issuing Authority:	Chief of Police Lee Miller		

I. POLICY:

It is the policy of this department to adhere to the conditions under which a warrantless arrest may be made by an officer of this department. Lincoln Police Department officers have the authority to arrest persons without a warrant consistent with the following provisions of Maine law.

II. PURPOSE:

The purpose of this general order is to establish guidelines, responsibilities, and procedures for arrests without a warrant by a Lincoln Police Department officer.

III. PROCEDURES:

A. PROBABLE CAUSE

1. Probable cause means that, based on all the facts and circumstances within the officer's knowledge and of which they have reasonably trustworthy information, there is sufficient evidence to warrant a reasonable and prudent person to believe that the person to be arrested has committed, is committing, or is attempting to commit a crime. The evidence required to make an arrest is more than suspicion but less than that needed to support a conviction.
2. In addition to having lawful authority, an officer must also have probable cause to make an arrest.
3. Probable cause requires more than mere suspicion but does not require evidence that would justify a conviction. The totality of circumstances surrounding the arrest, therefore, is of great importance.
4. Each officer should be aware of the circumstances and information that may be used to help establish probable cause:
 - a) Direct observations of the police officer.
 - b) Knowledge of the prior criminal record or bad reputation of the person(s) arrested.
 - c) Evasive actions or flight from the scene by the suspect.
 - d) Evasive answers and/or conflicting stories.
 - e) Time of day or night.
 - f) Experience of the officer in similar criminal situations.
 - g) The transfer of information or probable cause between police officers.

- h) Reliable hearsay information in the form of statements from victims, witnesses, or informants.
5. Information obtained through informants and used to establish probable cause will be closely examined and may be the subject of legal challenge during the trial. The officer relying on the hearsay statement of an informant must show that the information was reliable by a "totality of circumstances."

B. POST-ARREST AFFIDAVIT

MLEAP 7.05

1. If a person is arrested without a warrant, the complaint shall be filed without delay and, if the person is detained in lieu of bail, a probable cause affidavit or statement signed under oath, must be filed and hearing must occur within forty-eight (48-hours) hours, Saturdays, Sundays, and holidays excepted.
 - a) Detention beyond the time necessary to complete routine booking/processing functions refers to being held with no bail or cash bail that cannot be immediately met; it does not include situations where a person is bailed but subsequently detained for protective custody under.
2. If there was no warrant, then an affidavit of probable cause needs to be prepared by an officer having personal knowledge of the facts and circumstances of the case.
 - a) The affidavit shall include the date, time, place of arrest, and charge.
 - b) The affidavit should be brief, generally no more than one page.
 - c) The officer will then swear to the truth of the affidavit.
 - d) The affidavit shall be placed in the arrest file.

C. Warrantless Arrest:

MLEAP 7.03

Title 17-A § M.R.S.A. 15. Warrantless arrests by a law enforcement officer. Except as otherwise specifically provided, a law enforcement officer may arrest without a warrant:

- A. Any person who the officer has probable cause to believe has committed or is committing:
- (1) Murder.
 - (2) Any Class A, Class B or Class C crime.
 - (3) Assault while hunting.
 - (4) Any offense defined in [chapter 45](#);
 - (5) Assault, criminal threatening, terrorizing, or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested.
 - (6) Assault, criminal threatening, terrorizing, stalking, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that the person and the victim are family or household members, as defined in [Title 19-A, section 4102, subsection 6](#); or dating partners as defined in Title 19-A section 4102, subsection 4.
 - (7) Theft as defined in [section 357](#), when the value of the services is \$1,000 or less if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
 - (8) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested.
 - (9) Negotiating a worthless instrument if the officer reasonably believes that the person will not be apprehended unless immediately arrested.
 - (10) A violation of a condition of probation when requested by a probation officer or juvenile community corrections officer.
 - (11) Violation of a condition of release in violation of [Title 15, section 1026, subsection 3](#); [Title 15, section 1027, subsection 3](#); [Title 15, section 1051, subsection 2](#); and [Title 15, section 1092](#);
 - (12) Theft involving a detention under [Title 17, section 3521](#);
 - (13) Harassment, as set forth in [section 506-A](#);
 - (14) Violation of a protection order, as specified in [Title 5, section 4659, subsection 2](#); [Title 15, section 321, subsection 6](#); former Title 19, section 769, subsection 2; former Title 19, section 770, subsection 5; [Title 19-A, former section 4011, subsection 3](#); and [Title 19-A, former](#)

[section 4012, subsection 5](#); Title 19-A, section 4113, subsection 3; and Title 19-A, section 4114, subsection 5.

- (15) A violation of a sex offender registration provision under [Title 34-A, chapter 15](#);
 - (16) A violation of a requirement of administrative release when requested by the attorney for the State.
 - (17) A violation of a condition of supervised release for sex offenders when requested by a probation officer.
 - (18) A violation of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State.
 - (19) A violation of a condition of release as provided in [Title 15, section 3203-A, subsection 9](#);
 - (20) A violation of a condition of supervised community confinement granted pursuant to [Title 34-A, section 3036-A](#) when requested by a probation officer;
 - (21) A violation of a condition of placement on community reintegration status granted pursuant to [Title 34-A, section 3810](#) and former section 4112 when requested by a juvenile community corrections officer;
 - (22) A violation of a condition of furlough or other rehabilitative program authorized under [Title 34-A, section 3035](#) when requested by a probation officer or juvenile community corrections officer;
 - (23) A violation of pre-conviction or post-conviction bail pursuant to [Title 15, section 1095, subsection 2](#) or section 1098, subsection 2 upon request of the attorney for the State;
 - (24) Failure to appear in violation of [Title 15, section 1091, subsection 1, paragraph A](#);
 - (25) A Class D or Class E crime committed while released on pre-conviction or post-conviction bail; or
 - (26) A violation of a condition of release from a community confinement monitoring program pursuant to [Title 30-A, section 1659-A](#); and [PL 2017, c. 148, §3 (AMD).]
- B. Any person who has committed or is committing in the officer's presence any Class D or Class E crime.
- 1) For the subsection 2, criminal conduct has been committed or is being committed in the presence of a law enforcement officer when one or more of the officers senses afford that officers personal knowledge of facts that are sufficient to warrant a prudent and cautious law enforcement officers belief that a Class D or Class E crime is being or has just been committed and that the person arrested has committed or is committing that Class D or Class E crime.
 - 2) An arrest made under subsection 2 must be made at the time of the commission of the criminal conduct, or some part thereof, or within a reasonable time after that or upon fresh pursuit.