



# BRAINTREE POLICE DEPARTMENT

## Policy and Procedure

### Law Enforcement Role and Authority

#### 2019-82

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#### General Considerations

When an agency defines its role, two broad purposes are served. First, sworn and civilian personnel are made aware of the actions and attitudes expected of them and can, therefore, act without hesitation in consonance with the agency's values and policies. Second, members of the public are provided with a general understanding of the values, mission, goals, basic programs and priorities of the agency within the community it serves.

Written directives concerning agency role, limits of authority and use of force emphasize the agency's intent to meet or exceed the public's expectation in the delivery of services. Community members expect that police will use only that force that is reasonable, will issue weapons only to those agency members who are authorized to carry them as a condition of their duties, and that all tactics conform with policy, procedures, rules and regulations and training.

The Braintree Police Department (BPD) ensures that its officers are responsive to and protect the constitutional rights of the community and in its values conveys a sense of responsibility and compassion thereby gaining legitimate authority in addition to its legal authority.

#### Definitions

**Discretion:** The judicious use of legal and legitimate authority by police in their efforts to protect the community.

**Legitimate Authority:** Legitimacy reflects the belief that the police ought to be allowed to exercise their authority to maintain social order, manage conflicts and solve problems in their communities.

Legitimacy is reflected in three judgments:

- First is public trust and confidence in the police.
- Second, legitimacy reflects the willingness of the residents to defer to the law and to police authority, i.e. their sense of obligation and responsibility to accept police authority.
- Finally, legitimacy involves the belief that police actions are morally justified and appropriate to the circumstance.<sup>1</sup>

Policy

It is the policy of the BPD to:

- Protect the constitutional rights of all community members;
- Act with legal authority and earn legitimate authority;
- Use force that is reasonable; and
- Convey in values, mission, and written directives a sense of responsibility and compassion.

Legal  
Authority  
1.2.1

The Chief of Police (Chief) serves as the head of the Police Department and derives legal authority under the Town of Braintree Code of Ordinances, Chapter 2.610 and M.G.L. c.41 § 97A. **[1.2.1]**

Town of Braintree Code of Ordinances, Chapter 2.610.010 states: The Mayor shall appoint a Chief of Police and all sworn personnel of the Police Department, subject to the Civil Service Law and Rules.

Town of Braintree Code of Ordinances, Chapter 2.610.020 states the following powers and duties of the police chief and police department, in general:

- The Chief of Police shall exercise all powers and duties conferred upon such office by M.G.L. c. 41 §97A;
- the Chief of Police shall be in immediate control of all Town property used by the Department, and of the police officers, whom he/she shall assign to their respective duties and who shall obey his/her orders;
- The Police Department shall have full charge of keeping the peace and the enforcement of all laws within the Town;
- The Chief of Police shall from time to time make suitable regulations governing the Police Department, and the officers thereof, subject to the approval of the Mayor, provided that such regulations shall become effective without such approval upon the failure of the Mayor to take action thereon within 30 days after they have been submitted to him/her by the Chief of Police;
- The Chief of Police shall be responsible for the enforcement of all laws and Town ordinances and to receive complaints

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<sup>1</sup> See January/February PERF Newsletter by Tom Tyler.

regarding the enforcement of the same. The Chief of Police shall cause proceedings to be initiated for the prosecution of all such violations of law or ordinance;

- The Chief of Police and police officers shall report any defects or obstructions in any streets, ways, squares, or public grounds of the Town which they may discover or which are reported to them;
- The Chief of Police and police officers shall report all matters that impact public health which they may discover or which are reported to them;
- The Chief of Police shall keep or cause to be kept a complete record of the acts and business of the Police Department, including a full and accurate account of all receipts collected and expenditures, which shall at all times be subject to inspection by the Mayor, Director of Municipal Finance and Auditor;
- The Chief of Police shall keep or cause to be kept a complete record of each arrest and incident report and shall be responsible for the records of all prisoners.

In addition to having the above powers and duties as prescribed by state statute and ordinance, all sworn officers and special officers of the BPD derive the legal authority to affect a full-custody arrest from M.G.L. c.41 § 98. **[1.2.1]**

M.G.L. c.41 § 98 states: “The Chief and other police officers of all cities and towns shall have all the powers and duties of constables except serving and executing civil process. They shall suppress and prevent all disturbances and disorder. They may carry within the Commonwealth such weapons as the Chief of Police or the board or officer having control of the police in a city or town shall determine; provided, that any law enforcement officer of another state or territory of the United States may, while on official business within the Commonwealth, carry such weapons as are authorized by his/her appointing authority. They may examine all persons abroad whom they have reason to suspect of unlawful design, and may demand of them their business abroad and whither they are going; may disperse any assembly of three or more persons, and may enter any building to suppress a riot or breach of peace therein. Persons so suspected who do not give a satisfactory account of themselves, persons so assembled and who do not disperse when ordered, and persons making, aiding and abetting in a riot or disturbance may be arrested by the police, and may thereafter be safely kept by imprisonment or otherwise unless released in the manner provided by law, and taken before a district court to be examined and prosecuted.

Whoever is arrested and charged with any offense committed during a riot, disturbance or mass demonstration may be fingerprinted, in accordance with the protocol of the identification system of the department of the state police and may be photographed.

If a police officer stops a person for questioning pursuant to this section and reasonably suspects that he/she is in danger of life or limb, he/she may search such person for a dangerous weapon. If he/she finds such weapon or any other thing the possession of which may constitute a crime, he/she may take and keep it until the completion of the questioning, at which time he/she shall return it, if lawfully possessed, or he/she shall arrest such person.”

Appointed  
Positions

**Special Police Officers:** The Chief of Police in the Town of Braintree, as the appointing authority, may appoint as he or she deems necessary, Special Police Officers, to include retired police officers, the Animal Control Officer, dispatchers and other qualified candidates, for the purpose of performing police details or performing any police duties arising from those police details or arising during the course of police detail work, whether or not related to the detail work.<sup>2</sup> [1.2.1]

**Animal Control Officer:** Pursuant to Chapter 2.505 of the Town of Braintree Code, there shall be an Animal Control Officer (ACO), appointed by the Mayor. When deemed to be in the best interests of the Town, the ACO may also be a member of the BPD and shall work under the direction and control of the Chief. The ACO shall be responsible for the enforcement of all laws relating to dogs, including but not limited to M.G.L. c. 140 §§136A to 174, and all ordinances of the Town further regulating animals. The ACO shall have all of the powers of a field driver and pound keeper, as provided in MGL c. 49 §§22 to 41, and the authority to take up stray beasts as provided in M.G.L. c. 134 and any other enabling authority relative thereto. The ACO shall be responsible for the taking up, confinement, and disposition of wild animals which are disturbing the public peace or providing a threat to public safety. The ACO shall coordinate and cooperate, as necessary, with the various humane societies that are active in Braintree and the surrounding area.

**Harbormaster:** In accordance with Chapter 2.570 of the Braintree Town Code, the Mayor shall appoint a Harbormaster and any Assistant Harbormasters as the Mayor deems necessary. (See M.G.L. c. 102 §19). When deemed to be in the best interests of the Town, the Harbormaster or Assistant Harbormaster may also be a Town officer or employee performing related duties.

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<sup>2</sup> See Department policy on Special Police Officers for additional information.

The Harbormaster shall be responsible for the operation and permitting of all vessels and the location of all moorings in the harbor in conformity with M.G.L. c. 102 §17 to 28, and all Town ordinances adopted in relation to the harbor. The Harbormaster may, subject to the approval of the Mayor, set fees and make reasonable rules and regulations regarding the operation and permitting of vessels in the harbor.

Use of  
Discretion  
**1.2.7**

“We now understand that telling officers only what they cannot do, which is so typical of police manuals and rules and regulations, has not improved the quality of policing. We know as well that the work world of police is too complex to tell officers exactly what they should do in every circumstance. The only alternative left for the management of most police work is to teach officers how to think about what they should do, do it, and then talk about it, so that they improve over time and share their emerging values, knowledge, and skills with their colleagues and the profession.”<sup>3</sup> The BPD subscribes to this view.

The BPD Policies and Procedures Manual provides its members with the limits of discretion within their legal authority and provides the framework for learning to police according to the vision of legitimate authority and procedural justice set forth by the Chief. **[1.2.7]**

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<sup>3</sup> Discretion as discussed in a National Institute of Justice Paper published in 1999.