

# BREAKING AND ENTERING

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## I. GENERAL CONSIDERATIONS AND GUIDELINES

Burglars generally fall into two categories - the opportunist and the professional. The opportunist is the criminal who is always on the lookout for a place that is easy to break into with the least hazard of detection and where [s]he can obtain cash, jewelry, television sets, radios, stereo equipment or other portable items that have an immediate resale or pawn value. [S]he may be armed or obtain firearms in the break and can be very dangerous if cornered. Often [s]he may be a drug addict who requires considerable illegal income to sustain his/her habit.

The professional, on the other hand, commits his/her break only after considerable planning. [S]he usually has advance information on the valuable items to seize, knows the habits of the persons living or employed in the building selected and has adequate tools to make his/her entry effectively. Quite often [s]he may commit the crime in a community far removed from his/her home and provides himself/herself with suitable transportation to carry his/her tools and to drive quickly away with the proceeds of the crime. Safe-breakers, warehouse and loft burglars and thieves who break through roofs or through the walls of adjoining buildings fall into this latter category. They usually know what they are looking for and the value of the articles they are going to steal.

In most cases, they are also acquainted with a receiver who can readily dispose of the stolen goods.

Many offenses of breaking and entering are perpetrated by juveniles who often, in addition, commit senseless acts of vandalism. The damage and destruction of property is often far greater than the value of the property taken in breaks committed by juveniles. This is particularly true in the breaking and entering of school buildings and places of worship.

The most important consideration in the prevention and control of burglary and related crimes is citizen cooperation. Without the involvement of citizens, no prevention program can be successful. All citizens of the community should be encouraged to take all necessary precautions to make their property more secure by utilizing adequate locks, burglar alarms, and sufficient lighting to deter criminals, and by marking their property with names, numbers or symbols which they can identify. A neighborhood watch program where citizens alertly cooperate in watching each other's property can greatly improve community security. Citizens should be constantly requested and encouraged to immediately notify the police when they observe suspicious persons or suspicious circumstances even if their suspicions later prove to be unfounded.

## **II. POLICY**

A. It is the policy of this department to:

1. Respond promptly to all alarms and reports of possible or actual breaking and entering;
2. Work with the public to educate citizens and businesses concerning ways to prevent crimes, especially those involving breaking and entering; and
3. Investigate and prosecute all crimes, including those involving breaking and entering.

## **III. PROCEDURE**

### **A. Responding to Burglaries in Progress**

1. Whenever an officer responds to a call for a breaking and entering in progress, [s]he shall not enter the building without adequate assistance, unless some person lawfully

therein is in immediate danger of physical harm from the intruder. This also includes those situations where a burglar alarm has been activated, an open door found or a person observed under suspicious circumstances in what should be an empty building.

2. Unless it is necessary to go to the assistance of a person in danger, an officer shall not enter any building if it is believed that a burglar is still therein until additional officers have arrived and all exits from the building have been covered. If the services of a Canine Officer are available, [s]he shall be called to the scene. A trained police dog is exceptionally valuable for such building searches. If a Canine Officer is to conduct the search, officers should avoid entering the building prior to his/her arrival in order not to leave confusing scents and, in any event, all other officers should be withdrawn from the building before the police dog enters. The advice of the Canine Officer should be sought concerning recommended methods of conducting a building search with the use of the dog.
3. While waiting for assistance to arrive, an officer responding to a breaking and entering in progress shall take a position of advantage where as much of the building as possible can be observed and where the suspect is most likely to exit.
4. If at all possible, the owner of the residence or the commercial establishment shall be contacted by the police and the Dispatcher shall relay to the officers at the scene such information as:
  - a. The known or likely presence of any lawful occupants such as a family member, guest or babysitter,
  - b. The known or likely presence in the building or on the grounds of any guard or watchman,
  - c. The location of any safe or major valuables the robbers may be after,
  - d. The location of any firearms on the premises, and
  - e. The location of main power switches, particularly the location of electric light switches.

5. Officers must exercise extreme caution to ensure that plain clothes officers arriving at the scene are properly identified as police officers, and not mistaken for criminals.
6. When the back-up officers arrive, they shall:
  - a. Take the most strategic positions covering all possible exits;
  - b. Check whether a look-out or an escape vehicle for the suspect is still in the vicinity;
  - c. Check for any visible signs of entry at the doors, windows or on the roof; and
  - d. Check for the possibility that entry has been gained through the wall of an adjoining building, if possible.
7. It is always preferable for the suspect to come out voluntarily and [s]he shall be given that opportunity, if possible. This will avoid the possibility of injury to a police officer or to other persons in the vicinity.

## **B. Entering a Building**

1. If it becomes necessary to enter the building, the entering officers must work closely together, covering one another in the darkened interior. This will reduce any danger of one officer injuring another accidentally. Such officers shall notify the Dispatcher prior to entering the building.
2. Officers should step inside quickly to avoid making a target. If use of a flashlight is necessary, it shall be held out away from the officer's body since an armed suspect may fire at the light source.
3. Once inside, officers should wait a few moments to become accustomed to the darkness and then carefully and methodically check the entire building to determine if a crime has been committed and if the suspect is still therein. Any place in the building can provide a hiding place and great care should be used in conducting the search. A trapped burglar can be a very dangerous adversary.

4. If a suspect is located, [s]he shall be carefully searched and handcuffed immediately. It should not be assumed that [s]he is working alone. The search shall be continued until the entire building and its immediate vicinity have been thoroughly searched. A thorough search of the premises shall be made for any weapon which the suspect may have discarded once [s]he realized [s]he would be apprehended.
5. After the completion of the building search and the apprehension of all suspects, a search for any physical evidence of the break and the manner in which it was accomplished shall be conducted. In particular, anything that may have been used to break and enter the building or to break and enter any depository inside the building shall be sought.
6. The Chief or the Officer-in-Charge shall be notified of the circumstances and the owner should be notified to secure the building and to provide police with a detailed list of any missing or damaged items.

### **C. Responding After Intruder Has Left Building**

1. Whenever an officer responds to a call for a breaking and entering, or an attempt to do so, where the offender has already escaped from the scene, the officer shall obtain, as completely as possible, a description of the suspect, a description of any vehicle used, and the direction of flight, if known. This information shall be provided immediately to the Dispatcher for the attention of all other on-duty officers.
2. The crime scene shall be secured until a thorough search for fingerprints, tool marks or any other physical evidence has been made and any necessary photographs or measurements taken. A latent fingerprint from the crime scene that can be identified with a suspect is invaluable for the successful prosecution of a breaking and entering.<sup>1</sup>
3. The officer making the preliminary investigation shall ascertain as accurately as possible and carefully note the time the crime was committed, the method of entry and a description of any property taken including its value and all identifying numbers or marks. The ability of the owner to identify adequately stolen property is essential for its recovery and a most important factor in leading to the arrest

and conviction of a suspect found with stolen property in his/her possession.

4. The investigating officer shall interview neighbors by canvassing door-to-door to determine whether anyone made observations of any suspicious conduct.
5. Subsequent to any breaking and entering where identifiable property of any value is missing, checks shall be made of local secondhand stores, pawn shops and other establishments, especially those known or suspected of dealing in stolen goods.

#### **D. Arrest of Suspect/Recovery of Stolen Goods**

1. Whenever any burglary (or receiving stolen goods) suspect is questioned, [s]he shall also be questioned with regard to any other burglaries in which [s]he or persons known to him participated. [S]he shall also be encouraged to cooperate by revealing the identities of persons who received or "fenced" any items taken in the break.
2. Stolen items, when recovered, shall not be immediately returned to their lawful owner. Rather, they shall be marked, packaged and secured to be held as evidence until trial or until release to the owner is otherwise authorized. The owner shall be notified that the items have been recovered. (See departmental policies on **Collection and Preservation of Evidence** as well as **Evidence and Property Control**.)
3. Any person arrested for breaking and entering and in whose possession or under whose control stolen items are found shall also be charged with buying, receiving or concealing stolen goods. If prosecution of the breaking and entering should fail (due to unavailability of witnesses, etc.), a conviction for the lesser crime of receiving can still be obtained.
4. When charging an individual with breaking and entering with intent to commit a felony or misdemeanor, the charge of criminal trespass must be included or a defendant's verdict may be set aside.<sup>2</sup>

5. A full report shall be made in accordance with departmental procedures.

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<sup>1</sup>*Com. v. LeClaire*, 28 Mass. App. Ct. 932, 548 N.E.2d 1281, *rev. den'd* 407 Mass. 1101, 552 N.E.2d 863 (1990)

<sup>2</sup>*Com. v. Vinnicomb*, 28 Mass. App. Ct. 934, 549 N.E.2d 1137 (1990)