

DOs and DON'Ts for CONSTABLES



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In recent years, statutes and regulations have impacted constables and the work they are permitted to do in Massachusetts.

The present document has been created to provide practical guidance about which actions are permitted and not permitted under Chapter 6E of the Massachusetts General Laws and Title 555 of the Code of Massachusetts Regulations.

For a violation of an applicable statute or regulation, the POST Commission reserves the right to impose any fine or sanction permitted by law. See e.g., M.G.L. c. 6E, § 3.

In this document, we will assume that the constables in question are acting in their capacity as constables and are not certified by the POST Commission.

Questions?

You can find additional information about the laws referenced above at the following website:
<https://mapostcommission.gov/about-post/regulations-advisories-and-guidance/>

If you have general questions about those laws, you can contact the POST Commission at 617-701-8401.

If you seek legal advice about a specific case, you can find a lawyer here: <https://www.mass.gov/info-details/finding-legal-help>

DOs

Serve Papers. A constable may serve papers on an individual, even when those papers include orders from a court or notice of a capias warrant.

Remove Property. A constable may remove items from a residence as part of a lawful eviction.

Call the Police. A constable is permitted—in fact, encouraged—to call the police if an individual is acting in a way that the constable believes might escalate into physical violence. A constable may also call the police if there is a need to detain someone or to remove someone physically from an area or residence.

Act in Self-Defense. Constables may protect themselves, like any other person, according to the laws of self-defense. Generally speaking, to be protected by the laws of self-defense, a constable, like any other person, cannot use more force than is reasonably necessary and cannot use force if there is a safe way to avoid using such force. The use of force should be a last resort, to be used only when a constable believes such force is necessary to protect the constable or another from the immediate danger of physical harm.

DON'Ts

Generally speaking, a constable may not engage in the conduct listed below. An exception exists in situations where a constable takes such actions in self-defense. (See above.)

Use Force. A constable is not permitted to use physical force to restrain an individual. Such impermissible force includes any form of deadly force or even pushing, striking, or holding an individual against that person's will.

Physically Detain. A constable is not permitted to physically detain an individual. Such impermissible detention includes, for example, placing an individual in handcuffs or holding an individual in place to prevent that individual from leaving.

Threaten to Detain or Use Force. A constable is not permitted to threaten to detain an individual or threaten to use force against an individual in an effort to make an individual comply with the constable's commands. Such impermissible threats include not only direct threats but indirect and implied threats and especially include threats of deadly force facilitated by the display of a firearm.