



PRACTICAL GUIDANCE FOR MASSACHUSETTS CONSTABLES

Massachusetts Peace Officer Standards and Training Commission

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In recent years, Massachusetts has enacted a series of statutes and regulations¹ that have impacted constables. Those statutes and regulations provide that a law enforcement officer must be certified by the Massachusetts Peace Officer Standards and Training Commission in order to arrest someone or perform police duties and functions.² Constables who execute arrests for any reason fall within the scope of this requirement.³

But what does that mean as a practical matter?

It means that many—in fact, most—parts of a constable’s job remain unchanged by the recent statutes and regulations, because most parts of a constable’s job do not involve arresting people or performing the duties and functions of a police officer, and because the statutes and regulations do not give constables, even certified constables, powers they did not previously have.

It also means, however, that constables are no longer permitted to take certain actions without being certified by the Commission.

Some actions might not involve physical contact but may still be impermissible because they involve a show of authority that is coercive—that is, they make another person feel compelled to act or not act in a certain way. Actions can become more coercive where, for example, they are facilitated by the use or display of a weapon, or the display of a badge or uniform resembling that of a police officer. The use or display of a weapon can create still further risks. It can escalate tensions, cause others to react to perceived threats to their safety, and increase the chances of physical harm, and even tragic results, for the constable or others. These possibilities are even more likely when a constable has not received the extensive training that is completed by certified law enforcement officers.

The present document is meant to provide practical guidance for constables wanting to know which actions are permitted and which are not permitted under the recent statutes and regulations.

This document aims to explain through examples.

To be clear, this document is not a comprehensive explanation of the statutes and regulations governing constables. It is also not meant to cover every situation a constable may face, nor is it intended to provide legal advice.

Instead, this document is meant to function like a lighthouse—providing enough light to help navigate around certain dangerous areas but not enough to illuminate the entire landscape.

In the examples below, we will assume that the constables in question have been duly appointed or elected to serve as a constable within their jurisdiction, but do not possess a law enforcement certification issued by the Commission.

If you seek guidance on a specific matter, we recommend that you seek the advice of a lawyer.

I. USE OF FORCE OR COMMANDS

Example 1: Mere Service

A constable serves papers on a person. Those papers include orders from a court that the person has to pay money, vacate certain premises, or appear in court. The constable uses no force and threatens no force. The constable merely serves the papers and then leaves.

The constable's actions are permitted.

Mere service of papers is not an arrest and is not a police duty or function.

Example 2: Service of Capias or Notice Paperwork

A constable serves papers on a person. Those papers could include a writ of habeas corpus and/or a notice. The papers inform the person of one or more of the following: (i) that a writ of habeas corpus has been issued for that person, (ii) that the person should appear at a certain court on a certain date and time, (iii) that the person's failure to appear may later result in the issuance of a civil arrest warrant, and/or (iv) that the person is subject to immediate civil arrest. The constable does not place the person under arrest. The constable uses no force and threatens no force. The constable merely serves the papers and then leaves.

The constable's actions are permitted.

Mere service of such paperwork is not an arrest and is not a police duty or function. The court, not the constable, issued the capias requiring the person to appear.

Example 3: Service and Placing Person in Handcuffs

A constable serves papers on a person. Those papers include a capias, a notice that the court has issued a capias, or both. The capias or notice commands that the person be brought to court. To make sure that the person complies, the constable places the person in handcuffs and drives that person to the courthouse.

The constable's actions are not permitted.

A constable is not permitted to “seize” or “detain” a person—which is what the constable did here by handcuffing the person.

Example 4: Service of Capias or Notice Paperwork and Volunteering a Ride

A constable serves papers on a person. Those papers include a capias, a notice that the court has issued a capias, or both. The capias or notice instructs the person to report to the court to remove the capias. The constable informs the person that the person does not have to come with the constable, but the constable offers to drive the person to court if the person wants to come with the constable. The constable uses no force and threatens no force. The person agrees to be driven by the constable to court. The constable does not place the person in handcuffs, and the person is not locked in the constable’s car during the drive to court.

The constable's actions are permitted.

A constable is permitted to transport a person if that person voluntarily agrees to be transported and knows that the person does not have to go with the constable. Here, the constable merely served papers and offered a ride, which was accepted. The constable did not arrest the person or perform police duties or functions.

Example 5: Service and Grabbing Person

A constable attempts to serve papers on a person. The person tries to leave. Trying to stop that person, the constable grabs hold of the person's arm. That person understands that the constable is trying to prevent the person from leaving. The person stops. The constable serves the person with the papers and then leaves.

The constable's actions are not permitted.

A constable does not have to use handcuffs or other such restraints to "seize" or "detain" a person.

The constable here intended to detain the person; the constable performed an action which did detain the person; and the person, who had been trying to leave, stopped because that person understood that the constable was trying to detain the person.⁴

The constable's use of physical force here was not permitted, even though the constable may not have used a great deal of force or detained the person for a long period of time.

Example 6: Volunteering a Ride and Grabbing a Person

A constable serves papers on a person. Those papers include a writ of habeas corpus, a notice that the court has issued a writ of habeas corpus, or both. The person agrees to accept a ride to court with the constable. When they arrive at court, the person decides not to enter the court. Instead, the person gets out of the constable's car and starts to walk away from the court. The constable grabs the person's arm and keeps the person from walking away.

The constable's actions are not permitted.

A person who consents to being driven by a constable may change their mind. Here, the fact that the person originally agreed to go to court with the constable did not give the constable authority to detain or seize the person when it was clear that the person no longer wanted to go. Grabbing the person's arm constituted an impermissible seizure.

Example 7: Eviction and Physical Removal of Person

A constable, as part of an eviction, is removing items from a residence. The person who has been living in that residence refuses to leave. The person is not physically threatening the constable. The constable grabs the person by the shirt and pushes the person out of the residence.

The constable's actions are not permitted.

The constable's actions here—using physical force and grabbing the person's shirt—amounted to a seizure of the person and were therefore not permissible.

Example 8: Service and Threat to Use Force

A constable attempts to serve papers on a person. That person starts to walk away. The constable commands the person to stop and shouts that, if the person continues to walk away, the constable will be forced to stop that person, draw a weapon, or handcuff the person. The person obeys the constable's command and stops. The constable serves the papers and leaves without use of physical force.

The constable's actions are not permitted.

An arrest or seizure does not have to involve physical restraint or the actual use of physical force. The threat of such restraint or force can be enough to create an arrest or seizure.

Said differently, a show of authority, through words or actions, can be enough to create an arrest or seizure, especially when the constable is coercing a person to do an action against that person's will. Such is the case in the example here.

Example 9: Eviction and Implied Threat to Use Force

A constable, as part of an eviction, serves papers on a person to alert that person that the person must vacate a residence. The person is not physically threatening but refuses to vacate the property. The constable suggests to the person that the constable is prepared to draw a gun to clear the residence if necessary. The person, frightened, vacates the residence.

The constable's actions are not permitted.

At times, a constable's actions are impermissible even when that constable uses no physical force. Words as well as actions can constitute a show of authority and thus cross the line of permissibility. Such an implied threat crossed the line here.

Example 10: 48-Hour Notice (No Force Used)

A constable, as part of an eviction, serves a 48-Hour Notice on a person. The 48-Hour Notice alerts the person that the constable will remove the person and the person's possessions from a residence if that person has not vacated the residence within 48 hours. After 48 hours, the constable returns to the residence. The person is still there. The constable calls the police, who physically remove the person from the residence. The constable does not assist in the removal of the person. The constable then removes the person's possessions from the residence.

The constable's actions are permitted.

The constable did not arrest, seize, or detain the person.

As part of a lawful eviction process, the constable was permitted to notify the person that the constable would remove the person from the residence, which the constable did by contacting the police who effectuated the removal.

The constable was also permitted to notify the person that the constable would remove the person's possessions, which the constable did by taking those possessions out of the residence.

Example 11: 48-Hour Notice (Force Used)

A constable, as part of an eviction, serves a 48-Hour Notice on a person. The 48-Hour Notice alerts the person that the constable will remove the person and the person's possessions from a residence if that person has not vacated the residence within 48 hours. After 48 hours, the constable returns to the residence. The person is still there. The constable grabs the person by the shirt and pushes that person out of the residence. The constable then removes the person's possessions from the residence.

The constable's actions are not permitted.

The constable's actions in using physical force and grabbing the person's shirt amounted to a seizure of the person and were therefore not permissible.

Example 12: 48-Hour Notice (Use of Police Authority)

A constable, as part of an eviction, serves a 48-Hour Notice on a person. The 48-Hour Notice alerts the person that the constable will remove the person and the person's possessions from a residence if that person has not vacated the residence within 48 hours. After 48 hours, the constable returns to the residence. The person is still there. The constable shows the person an official-looking badge and tells the person that the constable is prepared to place the person under arrest if necessary. The person, frightened, vacates the residence.

The constable's actions are not permitted.

Mere service of a 48-Hour Notice is not a police duty or function, but where service of such a notice is combined with other factors – such as a threat to arrest, display of a gun, or display of a badge resembling those worn by a police officer – a constable's actions may become a show of authority that amounts to performing police duties and functions. Such was the situation here.

Example 13: 48-Hour Notice (Informing Person About Police)

A constable, as part of an eviction, serves a 48-Hour Notice on a person. The 48-Hour Notice alerts the person that the constable will remove the person and the person's possessions from a residence if that person has not vacated the residence within 48 hours. After 48 hours, the constable returns to the residence. The person is still there. The constable tells the person that, if the person does not vacate the residence, the constable will call the police to remove the person from the residence. The person, upon hearing about the police, vacates the residence without the constable calling the police. The constable then removes the person's possessions from the residence.

The constable's actions are permitted.

It would have been lawful in this situation for the constable to call the police in order to remove the person from the residence. The constable was permitted to inform the person about the lawful steps that the constable planned to take to vacate the residence.

The constable did not arrest, seize, or detain the person.

II. SELF-DEFENSE

Example 14: Constable Unable to Escape

A constable serves papers on a person. That person attacks the constable. The constable, unable to escape, grabs the person and holds that person down in self-defense so that the person cannot harm the constable. The police are called and, upon arrival, place the person under arrest.

The constable's actions are permitted.

Constables do not abandon their right to self-defense when they become constables. They can protect themselves, like any other person, according to the laws of self-defense.

Still, a constable must be careful. The laws of self-defense are limited. They do not protect every use of force. Generally speaking, to be protected by the doctrine of self-defense, an individual, among other things, cannot use more force than is reasonably necessary, cannot use force if there is a safe way to avoid using such force, and, in most cases, cannot have initiated the aggression.⁵ There are many exceptions to the doctrine of self-defense; it is best to be cautious and use force only when certain that its use is permitted by law.

Example 15: Constable Able to Escape

A constable serves papers on a person. That person starts to threaten the constable with physical violence. The constable is able to leave safely by walking away from the person. Instead, the constable chooses to grab hold of the person, keep that person from leaving and, while that person is detained, call the police.

The constable's actions are not permitted.

A constable typically is not permitted to seize a person. An exception to that general rule is when self-defense applies.

Here, self-defense did not apply because the constable was able to escape safely but did not.⁶ Because the doctrine of self-defense does not apply, the constable's seizure of the person was not permissible.

Example 16: Constable Calls Police

A constable serves papers on a person. That person starts to threaten the constable with physical violence. The constable calls the police. The police arrive and place the person under arrest. The constable leaves.

The constable's actions are permitted.

A constable can call the police, like any other person can. The fact that a constable cannot themselves arrest a person does not bar a constable from calling the police, like anyone else, to report a crime or to be protected from harm.

III. REMOVAL OF PROPERTY

Example 17: Eviction and Removal of Personal Items

A constable, as part of an eviction, is removing items from a residence. The person who had been living in that residence tells the constable not to remove the items. The constable continues to remove the items according to the order of eviction. The constable does not use or threaten force and does not do or say anything that can be considered threatening towards the person.

The constable's actions are permitted.

Mere removal of items from a residence in accordance with a lawful order of eviction is not an arrest or a seizure. Nor is it a police duty or function.

Example 18: Eviction and Call to the Police (Threatening Individual)

A constable, as part of an eviction, is removing items from a residence. The person who has been living in that residence refuses to get off the bed, which is still located in the residence. The constable removes all other items in the residence and calls the police to assist with the person in the bed. The police arrive and remove the person. The constable then removes the bed.

The constable's actions are permitted.

Mere removal of items in accordance with a lawful order of eviction is permissible. The constable did not seize or arrest the person in the residence, nor did the constable engage in a police duty or function. Instead, the constable lawfully called the police who removed the person from the residence.

Example 19: Eviction and Call to the Police (Threatening Crowd)

A constable, as part of an eviction, is removing items from a residence. A crowd of people surround the residence and start shouting for the constable to stop removing items. The constable continues removing items. When the crowd becomes more hostile, the constable calls the police to assist. The police arrive. The police arrest one person. The constable continues to vacate the property.

The constable's actions are permitted.

The constable did not arrest or seize anyone, nor did the constable perform a police duty or function. When it seemed that physical force might be necessary, the constable called the police who engaged in the physical detention of a person.

A constable is permitted—in fact, encouraged—to contact the police when physical restraint or detention may be necessary or when a situation appears likely to lead to a physical confrontation.

Example 20: Eviction and Threat to Use a Gun

A constable, as part of an eviction, is removing items from a residence. The person who has been living in that residence asks

the constable not to remove the items. The person is not threatening the constable but is blocking the constable's path to the items in the residence. The constable displays what appears to be a gun and tells the person that he doesn't want any problems. The person, afraid, no longer blocks the constable. The constable continues to vacate the property.

The constable's actions are not permitted.

In this situation, the constable displayed the gun in an effort to assert authority over the person and gain that person's compliance while the constable was carrying out the orders of the court. The person reasonably understood that was the constable's intention and complied. The constable's actions here were an exercise of a police duty or function, and there was no justification for the constable's actions under the doctrine of self-defense because the person was not threatening the constable with physical harm.

IV. POST-SCRIPT

Whether an action is permissible or not depends on the specific facts of a case. The examples above are meant to provide general guidance. They are not intended to serve as advice for any specific case, nor to function as legal advice. If you would like further help with a specific case, please contact a lawyer. You can find resources to find a lawyer here: <https://www.mass.gov/info-details/finding-legal-help>

Further guidance regarding constables, certification, and the permissibility of constables' actions can be found in Guidance made available by the Massachusetts Peace Officer Standards and Training Commission:

<https://399759da.delivery.rocketcdn.me/wp-content/uploads/2025/02/Guidance-on-555-CMR-9.00-as-approved-on-09-14-23-Revised-021125.pdf>

If you have further questions about the requirements for law enforcement certifications or the statutes and regulations governing constables with respect to such certification, you can

contact the Massachusetts Peace Officer Standards and Training Commission at: <https://mapostcommission.gov/>

¹ See M.G.L. c. 6E, 555 CMR 1.00, 555 CMR 6.00, 555 CMR 9.00; see also Massachusetts Peace Officer Standards and Training Commission, “Guidance for Constables and Other Law Enforcement Personnel Regarding 555 CMR 9.00” (June 4, 2025, 12:03 PM) <https://399759da.delivery.rocketcdn.me/wp-content/uploads/2025/02/Guidance-on-555-CMR-9.00-as-approved-on-09-14-23-Revised-021125.pdf>

² M.G.L. c. 6E, § 1 (defining a “law enforcement officer” to include “a constable executing an arrest for any reason”); 555 CMR 9.12 (explaining that a law enforcement officer may not execute an arrest or perform police duties or functions if that law enforcement officer is an uncertified constable). In this document, the term “certified” means certified as a law enforcement officer by the Massachusetts Peace Officer Standards and Training Commission pursuant to M.G.L. c. 6E, § 4, and 555 CMR 7.00 or 555 CMR 9.00.

³ Id.

⁴ See, e.g., Tinsley v. Town of Framingham, 485 Mass. 760, 769 (2020) (“An arrest occurs where there is (1) an actual or constructive seizure or detention of the person, [2] performed with the intention to effect an arrest and [3] so understood by the person detained.” (alterations in original) (internal citations and quotations omitted)).

⁵ See, e.g., Commonwealth v. Chambers, 465 Mass. 520, 528 (2013) (initial aggressor); Commonwealth v. King, 460 Mass. 80, 83 (2011) (proportionality of force); Commonwealth v. Mercado, 456 Mass. 198, 209 (2010) (duty to retreat).

⁶ See, e.g., Commonwealth v. Mercado, 456 Mass. 198, 209 (2010) (duty to retreat).