

1.18 OFF-DUTY POLICE POWERS



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I. GENERAL CONSIDERATIONS AND GUIDELINES

Off-duty officers are often faced with situations involving criminal conduct that they are neither equipped nor prepared to handle in the same manner as if they were on duty. This may lead to unnecessary injuries to off-duty officers, and confusion for those on-duty officers arriving at the scene trying to correctly assess the facts. In some situations, the authority of off-duty officers may be questionable, especially where they are outside the limits of this municipality. The purpose of this policy is to provide guidelines to police officers regarding acceptable criteria for exercising their police powers while off-duty, including making an off-duty arrest.

II. POLICY

It is the policy of this police department to:

- A. Determine and regulate those situations and locations in which a sworn member is authorized to make an arrest while off duty; and
- B. Authorize officers to "self-activate" in limited circumstances, subject to the training and other restrictions set forth in this document.

III. DEFINITIONS

- A. *Off-Duty*: When a member is not in on-duty status, such as working a department assigned shift, overtime or paid detail.
- B. *Personally Involved*: An officer is deemed personally involved where the off-duty officer, a family member, or a friend becomes engaged in a dispute or incident involving a personal matter with the person to be

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arrested or any other person connected with the incident. This does not apply to situations where the police officer is a crime victim.

IV. PROCEDURES

A. Liability Protection

1. MGL c. 258 specifies requirements and limitations for civil liability protection for police officers.
2. Officers of this agency have liability protection for the on- and off-duty performance of official duties.
3. **This protection does not extend to those actions that the police officer knew, or reasonably should have known, were in conflict with the law or the established policies of this department.**

B. Off-Duty Enforcement

1. PERMITTED OFF-DUTY ARRESTS: When off duty and within the jurisdictional limits of this municipality, an officer may make an arrest only when all of the following occur:
 - a. There is an immediate need to prevent a crime or apprehend a suspect;
 - b. The crime would require a full custodial arrest; and
 - c. The arresting officer possesses police identification.
2. PROHIBITED OFF-DUTY ARRESTS: Officers shall avoid making arrests when:
 - a. The officer is personally involved in the incident underlying the arrest;
 - b. The officer's ability or judgment to use a firearm or take a person into custody has been impaired by use of alcohol, prescription drugs, or other medication or by a physical ailment or injury; or
 - c. A uniformed police officer is readily available to deal with the incident.
3. DISPUTES
 - a. Officers shall not make an arrest or take other official actions in personal matters or those of their neighbors, friends, associates, or relatives, unless such action is warranted by the immediate threat of serious bodily harm or significant property damage.
 - b. Officers obligated to take enforcement action in such cases shall notify a supervisor as soon as possible.

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4. ENFORCEMENT ACTION: PERSONAL INVOLVEMENT

- a. Officers shall not take enforcement action in any off-duty situation where the officer is personally involved in the incident underlying the need for such action.
- b. The officer shall report such an incident to a supervisor, who will take or assign another officer to take the off-duty officer's complaint.
- c. Nothing in this policy is to be interpreted as preventing or prohibiting a member from defending himself/herself or others from assaults or threats of death or serious bodily harm regardless of the member's duty status.

C. Off-Duty Responsibilities

1. While off duty, a police officer is responsible for immediately reporting any suspected or observed criminal activities to on-duty authorities.
2. **When an officer is prohibited from taking off-duty enforcement actions under provisions of this policy, the officer shall act as a trained observer and witness to the offense and shall summon on-duty personnel as soon as reasonably possible.**
3. Where an arrest or other enforcement action is necessary, the off-duty arresting officer shall abide by all departmental policies and procedures.
4. Officers shall meet all reporting requirements including:
 - a. Incident reports; and
 - b. Use of force report, if appropriate.
5. Off-duty officers shall follow established protocols (including the use of signs and signals) for recognition of off-duty officers in plain clothes, so as to reduce the potential of misidentification of such personnel during enforcement encounters.

D. Identification

1. **Off-duty officers in plain clothes shall follow all orders issued by uniformed officers without question or hesitation and regardless of rank or assignment during enforcement encounters and shall identify themselves as law enforcement officers.**
2. Officers in under-cover assignments shall follow the policies regarding those assignments.