



# POLICY & PROCEDURES

## HOLMEN POLICE DEPARTMENT

SUBJECT: **EXPANDER OF JURISDICTION (off duty arrest)** NUMBER: 8.1

SCOPE: ALL DEPARTMENT PERSONEL

ISSUED: 03/01/2012

DISTRIBUTION: POLICY & PROCEDURE MANUAL

REVIEWED: 03/26/2017

### **PURPOSE**

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The purpose of this policy is to provide guidelines to police officers regarding acceptable criteria for making an off-duty arrest and appropriate behavior for ensuring safety during off-duty enforcement actions.

### **POLICY**

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Out-of-uniform, off-duty officers may confront criminal activity to which they should take, or must decide whether to take, enforcement action. When engaged in off-duty enforcement of this type, non-uniformed officers risk being mistaken as criminal suspects by responding officers. The following protocols are intended to define when off-duty, non-uniformed enforcement action is authorized and how it should be conducted in order to reduce the potential of officer on-officer shootings and related injuries. This policy is also intended to limit unnecessary enforcement action by off-duty officers.

### **DEFINITIONS**

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- *Personally Involved:* An off-duty officer is deemed personally involved when assisting a family member or a friend who becomes engaged in a personal dispute or incident. This does not apply to situations where the police officer, family member, or friend is a crime victim.
- *Out-of-uniform/Non-Uniformed:* Officers wearing clothes commonly worn while off duty; also referred to as civilian attire or street clothes.
- *Challenging Officer:* An officer who confronts or challenges an individual believed to be a suspect without knowledge, or reasonable suspicion to believe, that the individual is a law enforcement officer; may also be referred to as the confronting officer.
- *Challenged Officer:* An out-of-uniform officer who is mistaken for a criminal suspect by another officer during an off-duty enforcement encounter; may also be referred to as the confronted officer.
- *Tentative Recognition Signal:* A departmentally approved sign or gesture used by an individual to indicate that he or she is a law enforcement officer.

### **I. LIMITATIONS ON OFF-DUTY ARRESTS**

#### **A. Liability Protection**

- a. Officers have liability protection for on- and off-duty performance of official duties. This protection does not extend to those actions that the police officer knows, or reasonably should know, are in conflict with law or established policies of the department.

- b. Officers have police powers 24 hours a day throughout the jurisdiction. As such, officers may choose to carry departmentally authorized firearms when out of uniform in an off-duty status. However, when armed, sworn personnel shall carry their badge and credentials with them at all times.
- B. Authorized Off-Duty Arrests
- When off duty and within the legal jurisdiction of this law enforcement agency, an officer may make an arrest when
- a. there is an immediate need to prevent a serious crime, as defined by this department, or apprehend a suspect connected with a serious crime;
  - b. the crime requires a full custodial arrest; and
  - c. the arresting officer is adequately prepared and equipped to handle the situation.
- C. Prohibitions on Off-Duty Arrests
- a. An off-duty officer who is out of uniform should not attempt to make an arrest or engage in other enforcement actions when the provisions of section I.B.a-c of this policy are not met or when there are other reasonably effective alternatives to affect an arrest.
  - b. Off-duty arrests are prohibited when
    - i. the officer is personally involved in the incident underlying the arrest, unless an imminent threat to harm the officer or family.
    - ii. a uniformed police officer is readily available to deal with the incident,
    - iii. the officer is not in possession of proper departmental identification and an authorized departmental firearm, or a personal firearm the officer has qualified with or
    - iv. the reasonably perceived consequences and risks of responding outweigh the risks of not responding.
  - c. 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 uniformed personnel as soon as reasonably possible.
- D. Out-of-Uniform Officer Recognition
- Effective recognition is an essential component of ensuring safety for out-of-uniform officers during enforcement actions. As such, officers out of uniform shall do the following:
- d. Conspicuously display their badges and any other recognizable police clothing whenever it is necessary to be prominently identified. A jacket displaying the department's badge, patch, or both should also be worn when readily available. Baseball caps with department insignia alone are not an authorized form of identification.
  - e. When reasonably possible, direct departmental communications to inform responding uniformed personnel that a non-uniformed officer is responding and provide a description of the officer for relay to uniformed responders.
- E. Challenging Officer
- a. Officers shall use extreme caution when confronting persons in casual clothes who they suspect or who claim to be police officers. A position of advantage (cover) should be attained whenever reasonably possible prior to issuing a challenge.
  - b. Officers shall challenge in a loud clear voice. The same challenge command shall be used in all situations for simplicity and uniformity.
  - c. Officers receiving the tentative recognition signal authorized by the department from a confronted subject shall regard the signal only as an indication that they may be dealing with a law enforcement officer.
  - d. Officers should exercise their judgment in determining whether to protect the identity of a recognized officer in street clothes by treating him or her as a suspect in the presence of others.
  - e. Once the situation is controlled, the challenging officer shall request full identification from the challenged individual.
- F. Challenged Officer
- a. An officer or officers in uniform assume primary authority and control of any enforcement situation involving plain clothes officers until otherwise directed by a supervisor. Officers

shall obey the commands of the challenging officer, whether or not the officer is in uniform. This may include submission to the use of restraints or even arrest.

- b. When directed by a challenging officer to raise their hands, to drop their firearm, or to take any other action, officers in street clothes shall immediately comply, regardless to whom they believe the command is addressed.
  - c. The challenged officer shall take no action, such as attempting to show identification, unless and until directed to do so. Instead, if and when circumstances permit, the officer shall announce the location of his or her identification and badge to the challenging officer.
  - d. Challenged officers shall announce in a loud voice that they are police officers and shall repeat this until it is reasonable to believe that it is heard by the challenging officer
  - e. Challenged officers shall scrupulously avoid the common tendency to turn toward the voice of the challenging officer, as it has been identified as a primary cause of death or serious injury in police-on-police shootings.
  - f. When challenged by an officer who is not in uniform, the challenged member should use his or her own judgment as to whether the tentative recognition signal should be used.
  - g. Officers should ask the challenging officer to repeat any directions or questions that are unclear and should never argue with the challenger or show resistance.
  - h. Challenged officers shall warn challenging officers of hazardous or potentially dangerous circumstances.
- G. Notifications
- o Officers engaged in joint arrest or similar enforcement operations with other police agencies shall adopt common identification procedures in clothing, tentative recognition signals, and related matters. Officers shall notify participating agency communications units prior to conducting such enforcement operations if doing so would not compromise the operation.

Chief of Police  
Shane Collins