
 <p>Cambridge Police Department</p>	POLICY & PROCEDURES		No. 205
	Subject/Title: Off-Duty Police Powers & Conduct		
	Issuing Authority: 	Issue Date:	Effective Date: June 1, 2009
	Robert C. Haas Police Commissioner	Review Date:	Rescinds: Chapter 2, Rule 7.f (1993)
References/ Attachments:		Accreditation Standards: 1.2.1	

I. PURPOSE:

Off-duty police officers are on occasion faced with situations involving criminal conduct or other situations requiring police intervention they are neither equipped nor adequately prepared to handle in the same manner as if they were on duty. These situations may expose off-duty officers to potential hazards and unnecessary risk of injuries, and could present 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, as well as when officers should be reporting their off-duty conduct or involvement to the Office of the Commissioner.

II. POLICY:

It is the policy of this police department to:

- Clarify and regulate those situations and locations under which a sworn member is authorized to make an arrest while off-duty.
- Describe the parameters when off-duty officers are authorized to “self-activate” in limited circumstances, subject to the training and other restrictions set forth in this document.
- Identify those situations when off-duty officers are expected to report off-duty activities, conduct, or situations to the Office of the Commissioner.

III. DEFINITIONS:

- A. **Personally Involved:** An officer is deemed personally involved when 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 arrested or any other person connected with the incident. This does not apply to situations where the police officer is a crime victim.
- B. **Off-Duty Status:** Refers to the status of a sworn member of this department when that individual is free from the performance of specified police duties (e.g., regularly scheduled shifts, overtime assignments, private paid details, or times when an officer may be called back into service). This normally covers those periods of time when an officer is not scheduled to work, also referred to as time off, annual leave, or other forms of leave.
- C. **Self-Activation:** For purposes of this policy, the terms “self-activation” or “self-activate” refer to those situations when a sworn member of this department while in an off-duty capacity, asserts him/herself as a police officer into a situation when legally authorized to do so.
- D. **Liability Protection:** The Massachusetts General Laws under Chapter 258 specifies requirements and limitations for civil liability protection for police officers. Officers of this department have liability protection for the on-duty and off-duty performance of official duties. 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 rules and policies of this department.

IV. LIMITATIONS ON OFF-DUTY POLICE POWERS:¹

- A. **Statutory Limitations:** Unless an officer is acting under the provisions of Chapter 41, § 99 or Chapter 40, § 8G of the Massachusetts General Laws, or some other established legal agreement, sworn officer’s authority to act as a police officer while off-duty is limited to the jurisdictional boundaries of the city. Officers taking any action not legally authorized outside the jurisdictional boundaries of the city do so as private citizens when it comes to taking any police-related actions.

¹ CALEA Std.: **1.2.1** – A written directive defines the legally mandated authority and responsibilities vested in all categories of sworn agency personnel. If the agency has more than one category of sworn personnel, each shall be identified.

B. Off-Duty Conduct While in the City: Given the fact that police officers retain their police powers regardless of their duty status while in the city, it is imperative that officers be mindful of their conduct both on and off-duty. Despite the fact that officers may be in plainclothes and otherwise unidentifiable as police officers, often times an officer will be recognized by the general public as a police officer regardless of his/her duty status. Since this is often the case, officers should always be mindful of their legal standing in the community as it relates to their conduct and activities while in the city. Officers should take every effort not to knowingly place themselves in situations that has the potential of compromising their integrity, reputation, and the reputation of the police department and its members.

V. OFF-DUTY ARRESTS:

A. When Off-Duty Arrests are Admissible: Off-duty arrests will be permitted when a department member is within the legal jurisdiction of this police department, and when all of the following three circumstances are present:

1. There is an immediate need for the prevention of a crime or apprehension of a subject.
2. The arresting officer is in possession of appropriate police identification.
3. There is a likelihood that the delay posed by the calling and arriving of on-duty personnel would:
 - a. Allow the subject to escape or remain unknown;
 - b. Continuance of further criminal activity; or
 - c. Without such intervention, the situation could potentially escalate to a more serious degree.

B. Refraining from Enforcing Minor Violations: Off-duty officers should refrain from enforcing minor violations (such as parking or minor motor vehicle offenses), unless the officer has reason to believe that the violation may progress to a more serious crime or lead to personal injury.

C. When to Avoid Making Arrests: Off-duty officers should refrain from making arrests in situations in which they are personally involved. In these incidents, on-duty officers will be used to assess the situation and make any decisions on further legal action. This does not apply to those instances where the police

officer him/herself is the victim.

- D. Alert for Criminal Activity:** While off-duty, it is the responsibility of each member of this department to be alert to any suspected or observed criminal activity and report that activity to on-duty officers, or take action as authorized in this directive.
- E. When Action is Taken Off-Duty:** When an off-duty arrest becomes necessary, the arresting officer shall abide by all department regulations concerning arrests. The officer shall use only that force necessary to detain the subject securely and then shall contact the police station for assistance. The officer will be responsible for filing a complete and comprehensive police report on the incident immediately, and shall notify the on-duty shift commander of the circumstances surrounding the arrest.
- F. When Arrests are Prohibited:** When engaged in off-duty employment (other than private paid details) of a non-police nature, officers are prohibited from making arrests that are only in furtherance of the interests of the private employer or for personal reasons.
- G. Other Prohibitions of Off-Duty Arrests:** Despite the fact that a police officer has police powers and responsibilities 24 hours a day throughout this jurisdiction, the off-duty officer generally should not attempt to make arrests or engage in other enforcement actions when the provisions section of this policy are not met or when any of the following circumstances exist:
1. The officer is personally involved in the incident underlying the arrest. The one exception to this provision is when the immediacy of an arrest is necessary to protect the officer and/or others, and when there is not sufficient time to summons help, in which case the officer is expected to take the appropriate action.
 - a. In the event an officer does make an arrest under these circumstances, the off-duty officer is required to complete all of the associated reports and forms associated with the incident and the arrest.
 2. 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 physical ailment or injury.
 3. A uniformed police officer is readily available to deal with the incident.

- H. Receiving Direction from On-Duty Officers:** Off-duty officers in plain clothes shall follow all orders and directions issued by on-duty police personnel without question or hesitation during enforcement encounters and shall identify themselves as law enforcement officers as prescribed by departmental training.
1. If the off-duty officer is a ranking officer, that officer should confer with the ranking officer on the scene.
 2. Unless there are extenuating circumstances, off-duty personnel will allow the duty ranking officer to direct the resources that are responding to the situation.

VI. SELF-ACTIVATION WHILE OFF-DUTY:

- A. Identification as a Police Officer:** If an officer finds it necessary to activate him/herself while off-duty, the officer should identify him/herself as a police officer by producing the appropriate credentials, as soon as practical to do so.
- B. Summoning Assistance:** If an off-duty officer self-activates him/herself, the officer should attempt to summons police assistance as soon as practical to do so, providing as much information as possible to responding police units.
- C. Responsibilities Once Self-Activated:** Once an officer self-activates him/herself, that officer is bound by the same rules and guidelines that would normally apply to an officer who is working in an on-duty status, to include the completion of the appropriate reports and associated paperwork.

VII. REQUIRED NOTIFICATIONS FOR OFF-DUTY INCIDENTS:

- A. Situations Requiring Notification for Off-Duty Incidents:** Whenever an officer finds him/herself involved or implicated in any of the following incidents while in an off-duty capacity, said officer is to make notification to the Office of the Commissioner whenever practical to do so (refer to Subsection B for procedures to follow):
1. Anytime an officer discharges a firearm, except for those situations when an officer discharges a firearm for recreational purposes, unless it results in serious injury or death.
 2. Anytime an officer first learns that he/she is the subject of a law enforcement investigation when the officer is considered to be the suspect or defendant of

said investigation, or whenever an officer has been named as defendant on criminal charges.

3. Anytime an officer is involved in an incident when there is police involvement resulting from the officer's conduct or actions, with the exception of when an officer is the victim of said incident.
4. Whenever an officer is named as the defendant or accused of domestic violence, particularly if the officer is the subject of domestic violence restraining order.
5. Anytime an officer uses any of the department issued weapons against another individual (e.g., department issued firearm, chemical agent, PR-14, etc.).
6. Anytime an officer discovers the loss or theft of department issued weapons or equipment.
7. Anytime an officer has been arrested or taken into custody by law enforcement officials.
8. Anytime an officer finds it necessary to self-activate him/herself as a police officer.
9. Anytime any administration action may have been taken against an officer, which may have an impact on the officer's ability to perform his/her duties (e.g., revocation or suspension of a driver's license, revocation or suspension of a License to Carry a Firearms).
10. An officer should never feel precluded from notifying the Office of the Commissioner, if the officer feels it may be prudent to do so.

B. Procedures for Making Required Notifications: As soon as an officer finds him/herself involved or implicated in any of the aforementioned situations or circumstances, said officer is to make notification to the department as soon as practical to do so and without any unnecessary delay. The notification will be made in accordance with the following procedures:

1. Anytime an officer is confronted with any of the aforementioned situations, the officer is required to make notification to the duty shift commander, as soon as practical to do so.
2. Once a shift commander receives such a notification, the following steps should be taken:

- a. Ascertain as much information as possible to assess the seriousness of the situation and to decide whether there is immediacy in making notification to the Superintendent and the Police Commissioner.
- b. Provide direction to the reporting officer as to what steps need to be taken with respect to the situation being reported.
- c. The shift commander should fully document the notification in the form of an internal memorandum (form P-650), to include: what was being reported, any direction that was given to the officer, and how the report was channeled (routed to through the chain-of-command, immediate notification to the Superintendent, etc.).
- d. The shift commander should obtain any supporting documentation that may be available at the time of the report and include with the internal memorandum.