

OFF DUTY POWERS OF ARREST (Law Enforcement)

OBJECTIVES

- Staff will learn risks associated with making off-duty arrests
- Staff will learn general limitations to taking enforcement action off-duty

Traditionally, law enforcement has been considered a 24-hour-a-day responsibility. Officers whether on or off duty, have been expected to respond when necessary to potential or actual violations of the law and to provide assistance to citizens under emergency conditions. This tradition survives today in a broad cross-section of law enforcement agencies, although in varying degrees.

While officers have traditionally only been held personally liable for intentional misconduct, changing legal principles have somewhat altered this, opening law enforcement personnel up to personal judgments for false arrest, illegal searches, excessive use of force, and abuse of authority. Many of these lawsuits have focused on the reasonableness of actions taken by off-duty law enforcement personnel.

Of equal if not greater significance, officers are inadequately equipped to handle many high-risk emergencies off duty. Officers generally lack emergency communication equipment, don't have immediate access to assistance or essential equipment like a firearm, baton, mace, or other weapon, and are not likely to have body armor. In addition, non-uniformed off-duty officers have commonly been mistaken for criminal perpetrators; many of these incidents resulted in officers being fatally shot.

LIMITATIONS

Due to many risks to officers, more and more agencies are placing limitations on or prohibiting off-duty enforcement action. Prohibiting all enforcement authority might be extreme, but reasonable limitations on off-duty arrest powers are a prudent means of minimizing the dangers inherent to most off-duty arrest scenarios.

If an officer, while off-duty, witnesses a violation of the law committed in his or her presence which, in their professional judgment, demands immediate attention, the officer should make an arrest, providing:

- 1) The officer notified the appropriate law enforcement agency of the incident and of his or her presence prior to the arrest or immediately thereafter;
- 2) The law violation was committed in (your jurisdiction);
- 3) The officer does not use his or her own personal vehicle to chase or pursue the violator, but observes all traffic laws applicable to citizens;
- 4) The officer has law enforcement identification such as a badge and department photo identification. This will greatly reduce the possibility that an officer will be mistaken as a perpetrator when on-duty officers arrive;
- 5) The officer is not personally involved in the incident leading to the arrest—that is, where it involves a personal matter between the officer, his or her family members, or friends and other parties. Effective law enforcement requires dispassionate, objective analysis of the facts; the courts are less likely to support an officer with a personal involvement.
- 6) The officer has not consumed an intoxicating liquor and/or drug prior to the incident;
- 7) There is an immediate need to prevent a crime or to apprehend a suspect; and
- 8) The officer can make the arrest without jeopardizing his or her own safety, the safety of the offender, or of the public.

POLICY

Discuss all department policies relating to off-duty arrest powers and agency expectations.

CLOSING

- *Encourage discussion about this presentation and the need to exercise caution and good judgment when taking enforcement action off-duty.*