

## Off-Duty Law Enforcement Actions

### 338.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place a deputy as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for deputies of the Milwaukee County Sheriff's Office with respect to taking law enforcement action while off-duty (Wis. Stat. § 175.40(6m)(a)(3)).

### 338.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged and a deputy's authority is limited by the State of Wisconsin. Deputies, unless responding to an emergency situation that poses a significant threat to life or bodily harm pursuant to Wis. Stat. § 175.40 (6m)(a)1, shall not attempt to initiate enforcement action when witnessing non-violent crimes or property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency (Wis. Stat. § 175.40(6m)).

#### 338.2.1 OFF-DUTY LIMITATIONS

Deputies are not expected to place themselves in unreasonable peril. However, any sworn member of this agency may take reasonable law enforcement action to minimize or eliminate a threat if all of the following apply (Wis. Stat. § 175.40(6m)(a)):

- (a) A deputy becomes aware of an incident or circumstance that he/she reasonably believes poses a significant threat to life or of bodily harm. Unless the safety of a person requires immediate action, deputies should first consider reporting and monitoring the activity and only take direct action as a last resort.
- (b) The deputy is taking action that would be authorized by the policies of the Milwaukee County Sheriff's Office.

Nothing in this policy prevents an employee from conducting a lawful private person's arrest as long as his/her status with this agency is not used or disclosed.

### 338.3 FIREARMS

Deputies of this agency may carry firearms while off-duty in accordance with federal regulations, state law and agency policy. All firearms and ammunition must meet guidelines as described in the Firearms Policy. When carrying firearms while off-duty, deputies shall also carry their agency-issued badge and identification.

Deputies should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any deputy who has consumed an amount of an alcoholic beverage or taken any medication or drugs that would tend to adversely affect the deputy's senses or judgment.

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### **338.4 DECISION TO INTERVENE**

There is no legal requirement for off-duty deputies to take law enforcement action. However, should deputies who are authorized by law decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration (Wis. Stat. § 175.40(6m)(a)(3)(a)):

- (a) The tactical disadvantage of being alone and that there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, oleoresin capicum (OC) spray or a baton.
- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty deputy were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty deputy to be misidentified by other peace officers or members of the public.

Deputies should consider waiting for on-duty uniformed deputies to arrive and gather as much accurate intelligence as possible, instead of immediately intervening.

#### **338.4.1 INTERVENTION PROCEDURE**

If involvement is reasonably necessary, the deputy should attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be informed that an off-duty deputy is on-scene and should be provided a description of the deputy if possible.

Whenever practicable, the deputy should loudly and repeatedly identify him/herself as an Milwaukee County Sheriff's Office deputy until acknowledged. Official identification should also be displayed.

#### **338.4.2 INCIDENTS OF PERSONAL INTEREST**

Deputies should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances, deputies should call the responsible agency to handle the matter.

#### **338.4.3 OTHER CONSIDERATIONS**

When encountering a non-uniformed deputy in public, uniformed deputies should wait for acknowledgement by the non-uniformed deputy in case he/she needs to maintain an undercover capability.

### **338.5 REPORTING**

Any off-duty deputy who engages in any law enforcement activity, regardless of jurisdiction, shall notify the applicable local law enforcement agency as soon as reasonably practicable. Additionally, the employee shall contact the on-duty supervisor (Wis. Stat. § 175.40(6m)(a)(3)(c)). The notified

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supervisor shall advise the Shift Commander of any reported off-duty law enforcement action as soon as practicable. The Shift Commander will determine whether to send a supervisor to the scene and whether a report should be completed by the employee.

Deputies should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate (Wis. Stat. § 175.40(6m)(a)(3)(b)).