

TOWN OF OSCEOLA POLICE DEPARTMENT		POLICY: AUTHORITY AND DISCRETION (Expander of Jurisdiction)	
ISSUE DATE: 06/22/2016	REVIEW DATE: 04/10/2022	REVISED DATE: 04/10/2022	SECTION:
POLICY SOURCE: ---		TOTAL PAGES: 7	
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CHIEF: DONALD M. COOK		DATE: 04/10/2022	

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I. PURPOSE:

The purpose of this policy is to define the legally mandated authority vested in sworn agency personnel and to provide guidelines and circumstances when sworn personnel should exercise alternatives to arrest and/or alternatives to pre-arraignment confinement.

II. POLICY:

All employees, upon assuming the position of police officer with the Township of Osceola Police Department (TOPD), are required to take and abide by an oath of office to enforce the law and to uphold the Constitution of the State of Wisconsin and the Constitution of the United States.

Police officers of the Township of Osceola Police Department, whether on-duty or off-duty, are expected to conduct themselves in accordance with the laws of the United States and the State of Wisconsin, the municipal code of the Township of Osceola, and the rules, regulations, and policies of the Department. Furthermore, officers shall conduct themselves in a manner that reflects favorably upon themselves, the Township of Osceola Police Department, and the profession of policing.

With consideration of the situation at hand, officers are expected to take all steps necessary and consistent with their position to protect life and property and to enforce the ordinances of the Township of Osceola, Wisconsin Statutes, and the laws of the United States. The actions taken by an Township of Osceola Police Department police officer shall be dictated by the following guidelines for the use of police authority and the application of discretion.

III. DEFINITIONS:

IV. AUTHORITY AND RESPONSIBILITY WHILE ON DUTY

- A.) Within the corporate limits of the Township of Osceola, officers shall have the full authority granted by the following statutes and ordinances.
- B.) Wis. Stat. 968.07(1) permits a law enforcement officer to make an arrest when:
  - 1.) The law enforcement officer has a warrant commanding that such a person be arrested; or
  - 2.) The law enforcement officer believes, on reasonable grounds, that a warrant for the person's arrest has been issued in this state; or
  - 3.) The law enforcement officer believes, on reasonable grounds, that a felony warrant has been issued for the person's arrest in another state; or
  - 4.) There are reasonable grounds to believe that the person is committing, or has committed a crime.
- C.) Wis. Stat. 62.09(13) expands an officer's authority to arrest for violation of any state law or ordinance of the Township and grants officers the authority to arrest with or without process, persons found in the Township violating any law of the State or ordinance of the Township.
- D.) Wis. Stat. 29.941 & 30.79 provide that all police officers are deputy conservation wardens and shall assist the Department of Natural Resources (DNR) and its wardens in enforcement of Chapter 29 & 30 of the Wisconsin Statutes whenever notice of a violation is given to them by the DNR or its wardens.
- E.) 18 U.S. Code 3041 authorizes officers to make arrests for federal crimes; however, such action shall only be taken upon direction of a supervisor.
- F.) The authority granted by the statutes and ordinances in section A is expanded beyond the corporate limits of the Osceola Township, but within the State of Wisconsin, by the following statutes.

- 1.) Wis. Stat. 66.0313 states that upon request of any law enforcement agency, officers of this agency may assist in the requesting agency's jurisdiction and, for purposes stated in §§ 895.35 and 895.46, Wis. Stats., while acting in response to the request, shall be deemed employees of the requesting jurisdiction.
- 2.) Wis. Stat. 175.40(2) states, a peace officer may, when in fresh pursuit, follow anywhere in the state and arrest any person for the violation of any law or ordinance the officer is authorized to enforce.
- 3.) Wis. Stat. 175.40(4) states, a peace officer whose boundary is a highway may enforce any law or ordinance that he or she is otherwise authorized to enforce by arrest or issuance of a citation on the entire width of such a highway and on the entire intersection of such a highway and a highway located in an adjacent jurisdiction.
- 4.) Wis. Stat. 175.40(6)(a) states, a peace officer outside his or her territorial jurisdiction may arrest a person or provide aid or assistance anywhere in the state if the following criteria are met:
  - a.) The officer is on duty and on official business.
  - b.) The officer is taking action that he or she would be authorized to take under the same circumstances in his or her territorial jurisdiction.
  - c.) The officer is responding to any of the following:
    - i. An emergency situation that poses a significant threat to life or of bodily harm.
    - ii. Acts that the officer believes, on reasonable grounds, constitute a felony.
- 5.) On duty officers acting under the authority of § 175.40(6)(a), Wis. Stats., shall also adhere to all operational guidelines established in Section V. Authority and Responsibility While Off Duty, below.
- 6.) The authority of an Osceola Township police officer does not extend outside the State of Wisconsin except as provided by the Uniform Act on Fresh Pursuit. Officers who are outside the boundaries of this state on extradition, or other matters of direct concern to the Osceola Township, are not to engage in police activities unless necessary in the performance of their duties as an agent of the Township, and then only after consideration of the tactical situation.

#### V. AUTHORITY AND RESPONSIBILITY WHILE OFF DUTY

- A.) Osceola Township police officers have the same authority off duty as they have on duty, while within the corporate limits of the Township of Osceola or while exercising the statutory authority afforded under §66.0313, 175.40(2), or §175.40(4), Wis. Stats.
- B.) Osceola Township police officers who are off duty, outside the corporate limits of the Township of Osceola, and not engaged in police action authorized under §66.0313, 175.40(2), or §175.40(4), Wis. Stats., are authorized to act under the authority granted by §175.40(6m)(a), Wis. Stats., to include making an arrest

and providing aid or assistance, but only within the parameters established in section C., below.

- C.) The following guidelines apply to off duty officers acting under the authority of §175.40(6m)(a), Wis. Stats.
- 1.) The officer must be responding to an emergency situation that poses a significant threat to life or of bodily harm.
  - 2.) The officer must be taking action that he or she would be authorized to take under the same circumstances in the officer's territorial jurisdiction.
  - 3.) Prior to acting in response to an emergency, the officer should consider the feasibility of notifying the local law enforcement agency, observing the situation, and reporting to responding officers.
  - 4.) If circumstances compel intervention, the officer should take action only after considering the tactical situation with regard to his or her own safety and the safety of others. The officer shall endeavor to notify the appropriate jurisdiction at the earliest opportunity. Furthermore, recognizing he or she will not be readily identifiable as an officer, the officer shall properly announce his or her identity to participants, bystanders, and responding officers.
  - 5.) Upon the arrival of officers from the local jurisdiction, the officer shall cooperate fully with the responding officers, complying with any lawful directions given.
  - 6.) Any person arrested as a result of action authorized by this section shall be delivered into the custody of the appropriate jurisdiction upon their arrival.
  - 7.) Officers taking action authorized under this section shall notify the chief as soon as practicable and shall prepare an offense report fully documenting the action.
  - 8.) Nothing in this section should be construed in a manner that compels an officer to intervene while off duty and outside of the corporate limits of the Township of Osceola.

#### VI. LEGAL AUTHORITY TO CARRY AND USE FIREARMS

- A.) The authority granted police officers by §62.09 (13), Wis. Stats., and broadened by §968.07, Wis. Stats., provides the legal authority to carry and use weapons by agency personnel in the performance of their duties.
- B.) 18 U.S.C. 926B permits qualified active law enforcement officers to carry concealed firearms anywhere in the United States. Osceola Township police officers electing to carry a concealed weapon under the authority granted by 18 U.S.C. 926B must, by law, be in possession of their Township of Osceola Police Department photo identification card and must not be under the influence of an intoxicant. Furthermore, 18 U.S.C. 926B does not speak to a broadened police authority. Officers remain bound by department policy in matters related to the exercise of police authority.
- C.) Additional direction in the carry and use of weapons by agency personnel in the performance of their duties is located in the department policies entitled Use of Force and Firearms Regulations and Proficiency (see: Use of Force, Firearms Regulations and Proficiency).

**VII. APPLICATION OF PROFESSIONAL DISCRETION**

- A.) Officers are expected to act in compliance with the laws of the United States and State of Wisconsin, the municipal code of the Township of Osceola, and the rules, regulations, and policies of the department. Furthermore, all officers shall abide by the International Association of Chiefs of Police Law Enforcement Code of Ethics (Appendix A).
- B.) The severity of enforcement action, officer inaction or the decision to initiate contact or enforcement must not be influenced by race, gender, cultural background, appearance, mental or physical impairment, sexual orientation, socioeconomic standing, educational background, religious belief, or political affiliation.
- C.) Enforcement action must not be more severe than can be reasonably and objectively justified to serve the interests of the State of Wisconsin, Township of Osceola, and the Township of Osceola Police Department.
- D.) A lawful detention, contact, or enforcement activity may not be extended unnecessarily for the purpose of delaying the release or inhibiting the free movement of any person.
- E.) When engaging in arrest activities, officers shall abide by all state statutes, the WI Uniform Misdemeanor Bail Schedule Order Preamble, and department policies governing confinement.

**VIII. ISSUANCE OF EMPLOYEE IDENTIFICATION CARDS**

- A.) Upon hire, all employees shall be issued a photo identification card, identifying them as a member of the Township of Osceola Police Department.
- B.) Each identification card shall, at a minimum, contain the following information:
  - 1.) A photograph of the employee
  - 2.) The employee's name
  - 3.) The employee's date of hire
- C.) All employees are required to carry their identification card while on-duty, and show it when requested.
- D.) Officers working in an undercover capacity are exempt from C above.

**IX. ISSUANCE OF FORMER OFFICER IDENTIFICATION CARDS**

- A.) Upon separation of employment, eligible officers of the Township of Osceola Police Department may request the re-issuance of an identification card, identifying them as former members of the organization.
- B.) Pursuant to §175.48, Wis. Stats., an officer need not relinquish his or her ID card when separating from service with the Township of Osceola Police Department unless one of the following applies:
  - 1.) The officer may not lawfully possess a firearm under federal law.
  - 2.) The officer did not separate from service in good standing as a law enforcement officer with the agency.

- 3.) The officer served as a law enforcement officer for an aggregate of less than 10 years. This paragraph does not apply if the officer, after completing any applicable probationary period of service with the agency, separated from service with the agency due to a service-connected disability, as determined by the agency.
  - 4.) Either of the following applies:
    - a.) A qualified medical professional employed by the law enforcement agency has found the officer to be unqualified to be a law enforcement officer for reasons related to the officer's mental health.
    - b.) The officer has entered into an agreement with the law enforcement agency from which he or she is separating from service in which the officer acknowledges that he or she is not qualified to be a law enforcement officer for reasons related to the officer's mental health and in which the officer declines the photographic identification for that reason.
  - 5.) The employee has not returned all Township-issued equipment, to include all active identification cards.
- C.) Each identification card shall minimally contain the following information:
- 1.) A photograph of the former employee.
  - 2.) The former employee's name and rank at the date of separation.
  - 3.) The date of issuance.
  - 4.) The signature of the Chief of Police.
  - 5.) A disclaimer stating the bearer is not an officer or agent of Osceola Township and does not possess any authority to act on the Township's behalf or to exercise law enforcement authority.
  - 6.) A disclaimer that the identification does not authorize the bearer to carry concealed weapons under 18 USC 926C.
- D.) As stated in the aforementioned disclaimers, the bearer of a Township of Osceola Police Department former officer identification card exercises no lawful authority, enjoys no privileges, and is not an agent or officer of the Township of Osceola Police Department. Misuse of the identification card may result in the imposition of any applicable statutory penalties.
- E.) The issuance of a retired identification card does not authorize the retiree to carry concealed weapons under 18 USC 926C.

06-22-16

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Donald M. Cook  
Chief of Police

Date 04/10/2022

## APPENDIX A

**Law Enforcement Code of Ethics  
IACP**

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.