



# BETHLEHEM POLICE DEPARTMENT

<b>Off-Duty Action</b>	<b>Related Policies:</b>
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline..</i>	
<b>Applicable New Hampshire Statutes:</b>	
<b>CALEA Standard:</b>	
<b>Date Implemented:</b>	<b>Review Date:</b>

- I. **Purpose:** The purpose of this order is to adopt safety directives and guidelines for dealing with the carrying of firearms while in an off-duty status and for dealing with an officer duty and responsibility to take action in response to criminal activity while in an off-duty status.
- II. **Policy:** A member may carry a firearm while off-duty in accordance with state and federal law.
- III. **Procedure:**
  - A. It shall not be necessary that a member, who chooses to carry a firearm off-duty, carry his service weapon. However, any weapon that an officer chooses to carry must be inspected, approved, test-fired and registered with the agency armorer. A shell casing and bullet from the weapon shall be maintained by the agency armorer for identification purposes.
  - B. If an officer is going to carry a personally owned firearm under his or her authority as a police officer the officer shall be required to meet the State qualification standards for law enforcement firearms with the personally owned firearm.
  - C. Under Federal Law sworn law enforcement officers are allowed to possess a concealed firearm anywhere in the United States (HR 218). Officers should be aware that while this law exempts them from laws prohibiting such possessions, it does not give them police powers of any type outside of their jurisdiction. As such, an officer will generally be limited to the self-defense provisions of the state they are traveling through once outside their own jurisdiction; thus the officers rules of engagement are extremely limited
  - D. Officers shall refrain from carrying firearms when contemplating the consumption of alcoholic beverages or under other circumstances where the need to carry a firearm is outweighed by safety issues associated with the circumstances that the officer will be undertaking.
- IV. A member of the police department who becomes aware of an incident that poses a threat of serious bodily harm or death to some individual shall take "action" to minimize the risk of serious bodily harm or death. "Action" under this provision is fulfilled by reporting the incident and shall not require the officer to place him or herself in a position of peril. An officer who is faced with such a circumstance should act in accordance with the guidelines as spelled out in this policy.



# BETHLEHEM POLICE DEPARTMENT



## V. Procedure for Off-Duty Action:

- A. First, go to a safe location and call 911.
- B. Second, when you encounter a situation off-duty that seems to require law enforcement action, you must consciously evaluate whether your involvement is necessary or desirable, given the circumstances. How important and urgent is the need for your intervention?
- C. Utilize an off-duty/plainclothes wrist-band (to be worn on gun hand wrist) or any other clothing or item available that identifies you as a law enforcement officer to responding law enforcement personnel.
- D. A number of circumstances may impact your decision to get involved in any situation. First, you may be alone, with family members or other non-law enforcement personnel. Second, it is unlikely that you will have all of the necessary law enforcement service equipment while off-duty, for example; pepper spray, baton, handcuffs or radio. It must be recognized that the force continuum as well as threat assessment is changed due to this lack of equipment. You may be faced with multiple suspects or unaware of hidden suspects. There may also be environmental factors working against you such as: lack of cover, crowds of civilians, darkness, etc. Your intervention may actually spark an escalation of violence. Therefore, your best plan of action may be to:
  1. Gather accurate intelligence like a good witness until uniformed, on-duty officers arrive.
  2. Remember, you have NO LEGAL OR DEPARTMENTAL/OFFICE obligation to get involved, especially if such intervention places you in a position of peril or such intervention requires that you behave recklessly, carelessly or in a suicidal manner.
  3. While agency policy mandates that you “take action” when witnessing a serious crime, calling the on-duty police and monitoring the situation from a SAFE vantage point fulfill that obligation.
  4. Most survival-conscious officers have trained themselves NOT to intervene off-duty UNLESS their life or the life of another innocent party is IMMINENTLY in danger. In other words, you should only consider intervention when deadly force would be justified. You should not intervene just to make an arrest while off-duty. The decision to take action, beyond simply reporting, is a personal one and is not a requirement of this agency.
  5. If you decide you must get involved, attempt to have someone call 911 to advise the operator that an off-duty officer is on scene. Have the caller inform the operator if you are armed. If possible, have them describe you and your clothing. This will affect the mindset of the responding officers. When uniformed law enforcement officers arrive, have your badge out and visible. (If you carry your shield while off-duty, some officers carry only their photo credentials). Do not rely on showing your identification as a means of providing any protection. At a distance, in dim light and under stress, your badge may not be seen. Or, the



# BETHLEHEM POLICE DEPARTMENT

identification may not be given credibility if the responding law enforcement officers do not recognize you personally.

6. Some trainers advise officers to hold their badge next to their gun for the best chance of being seen because the eyes of the responding officers are most likely to go immediately to your drawn firearm. You are probably safer to RE-HOLSTER your gun when other officers arrive, unless doing so would put you and the responding officers or innocent civilians, in jeopardy. Until the responding officers sort out who is who, your gun is your greatest personal liability.
7. If you have cover, maintain it. You can communicate verbally from there.
8. Make your hands visible. Having responding officers see that you are unarmed and non-threatening will work to calm them and protect you.
9. Verbally identify yourself as a police officer—not once and not in a normal tone of voice, but repeatedly and very loud. Keep shouting out: “POLICE! DON’T SHOOT! OFF-DUTY OFFICER!” until you get acknowledgment and directions as to what you should do. Remember, the noise and excitement of the scene, combined with auditory blocking may prevent responding officers from hearing you initially.
10. When the responding officers issue commands, follow them promptly and completely. Expect to be treated like a suspect until your law enforcement status is verified.
11. When carrying a firearm off-duty (including finishing or beginning a tour of duty), It shall be concealed from public view by an outer jacket, shirt, sweater etc. If an off-duty officer’s firearm is observed and prompts the response of police or security officials, the off-duty officer should respond in a manner consistent with this policy.
12. Finally, the most important rule of all: If you have a gun in your hand, NEVER, EVER turn toward an on-duty officer.

**NOTE:** Plainclothes Officers should be aware that the same recognition issues applying to off-duty officers also apply to plainclothes officers and while rules of action are different, the rules with respect to protective steps, i.e. movements, identification etc. remain the same.