



POLICY & PROCEDURE

PORTAGE POLICE DEPARTMENT

SUBJECT: **LAW ENFORCEMENT AUTHORITY**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedures Manual

REFERENCE: WI State Statute: Chapter 941; 18 USC
926 B

NUMBER: 1.08
ISSUED: 06/22/2021
EFFECTIVE: 06/22/2021
 RESCINDS
 AMENDS
WILEAG 5TH EDITION
STANDARDS: 1.7.1, 1.7.2

PURPOSE: The purpose of this Policy & Procedure is to govern procedures for assuring compliance with all applicable constitutional requirements. The second purpose of this Policy & Procedure is to define the legal authority to carry and use weapons by Portage Police Department personnel in the performance of their duties.

This Policy & Procedure consists of the following numbered sections:

- I. CONSTITUTIONAL REQUIREMENTS
- II. LEGAL AUTHORITY TO CARRY WEAPONS

I. CONSTITUTIONAL REQUIREMENTS

A. All sworn law enforcement officers employed by the City of Portage Police Department are required to be certified as law enforcement officers by the Wisconsin Department of Justice Training and Standards Board. All officers shall abide by, uphold, and enforce laws of the United States of America Constitution, The State of Wisconsin, and ordinances of the City of Portage.

B. All officers will protect and respect the constitutional rights of all persons.

C. Officers have the authority under Wisconsin State Statutes to enforce local ordinances, state and federal law under the following statutes :

- 1. General Police Arrest Authority 62.09(13)
- 2. Arrests: boundaries, assisting other agencies 175.40
- 3. Arrests: off duty, outside employing jurisdiction 175.40 (6m)
- 4. Warrantless arrest for municipal ordinances 800.02 (6)
- 5. Arrest by a Law Enforcement Officer 968.07

6. Domestic Abuse Incidents: Arrest and Prosecution 968.075
7. Warrantless arrest for traffic regulations 345.22
8. DNR Assistance by law enforcement officers 29.941
9. Arrest by state officer for Federal crime 18 U.S. Code 3041
10. Police and Sheriff's to enforce traffic laws 349.02

- D. Further The United States Supreme Court has ruled In Terry v. Ohio, that a person can be stopped and briefly detained by a police officer based on a reasonable suspicion of involvement in a punishable crime.
- E. Wisconsin State Statute 939.45 grants officers privilege in using force to accomplish an arrest. For specific parameters regarding use of force refer to Policy & Procedure 5.01 Use of Force.
- F. Miranda Rights. A department form describes these rights and a waiver to such rights. Miranda Rights are read to/by an arrestee when required, *particularly prior to any in-custody interrogations of a suspect/defendant*. Admissions or confessions given freely prior to receipt of Miranda shall be documented in detail. After voluntary admission, the officer will give the arrestee/ detainee Miranda Rights. As stated in the waiver.
- G. Right to Know. Every person has a right to know why they were arrested. If the charge is not evident to the person, the arresting officer will inform the arrestee why they were arrested within a reasonable time frame, and if the arrest is for a warrant, the officer will inform them of its contents.

II. LEGAL AUTHORITY TO CARRY WEAPONS

- A. Portage Police Officers are authorized to carry and use weapons under the authority and powers granted to them by Wisconsin State Statutes and exemptions granted under Wis. Stats. Chapter 941. Officers may also carry a concealed weapon as authorized by 18 USC 926 B. Officer's shall have department issued identification on their person while armed, except for firearm recreational events such as hunting or trap shooting.
- B. It is the policy of the department to strictly regulate what firearms and ammunition officers are authorized to carry on-duty as primary firearms, back-up firearms, and as off-duty firearms. Only firearms and ammunition meeting department-authorized specifications, as established by this written directive, may be used by officers in law enforcement responsibilities both on and off duty, also refer to Policy & Procedure 12.01: Weapons and Ammunition.
- C. Further, it is the department's policy that any firearm intended for use by an officer in the performance of their law enforcement duty be reviewed, inspected, and approved by a qualified weapons instructor, as established by the Chief of Police.

A record will be maintained for all firearms approved by the department for official use; also refer to Policy & Procedure 12.01: Weapons and Ammunition.

- D. Only officers demonstrating proficiency in the use of a department authorized firearm, including handguns, shotguns and rifles, will be approved to carry such a firearm; also refer to Policy & Procedure 12.01: Weapons and Ammunition.
- E. Officers authorized to carry any firearm will have passed a departmental or state qualification course. The referenced issuance and instruction will be documented; also refer to Policy & Procedure 12.01: Weapons and Ammunition.
- F. An officer who carries a firearm off-duty under the authority of their certification and employment as a law enforcement officer shall have passed a departmental qualification course. The instruction and firearm will be documented and approved by the Chief of Police or designee.
- G. No Civilian Employee of the department is authorized to have in their possession, a firearm of any kind, while in any building or in any vehicle belonging to the City of Portage. This includes civilian employees who have been issued a license to conceal carry a firearm.

Keith J. Klafke
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

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