

GENERAL ORDER

PORT WASHINGTON POLICE DEPARTMENT

SUBJECT:	LAW ENFORCEMENT AUTHORITY	NUMBER:	1.7.1
		ISSUED:	5/5/09
SCOPE:	All Police Personnel	EFFECTIVE:	5/5/09
DISTRIBUTION:	General Orders Manual, and All Police Personnel	<input checked="" type="checkbox"/> RESCINDS	1.3
		<input type="checkbox"/> AMENDS	
REFERENCE:		WILEAG STANDARDS 3 rd EDITON: 1.7.1, 1.7.2	

INDEX AS: Legal Authority
 Constitutional Requirements

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

This Order consists of the following numbered sections:

- I. LEGAL AUTHORITY
- II. CONSTITUTIONAL REQUIREMENTS

I. Legal Authority

- A. Port Washington 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.
- 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, and as off-duty firearms. Only firearms and ammunition meeting department-authorized specifications, as established by this directive, may be used by officers in law enforcement responsibilities both on and off duty, refer to General Order 12.1.1.
- 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 firearms instructor, as established by the Chief of Police. A record will be maintained for all firearms approved by the department for official use, refer to General Order 12.1.1.

- 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, refer to General Order 12.1.1.
- E. Officers who will be authorized to carry any firearm will be issued copies of and instructed in the department policies relating to the use of defensive actions and firearms protocol before such authorization is given. The referenced issuance and instruction will be documented, refer to General Order 12.1.1.
- F. An officer must have written, departmental authorization for any non-departmental issued firearm carried on-duty and must have the same authorization for any non-departmental issued firearm carried off-duty by virtue of his/her position as a police officer. To obtain authorization to carry a specific firearm, an officer must first meet Department qualification standards with same.
- G. No civilian employee of the Department is authorized to have in their possession, a firearm of any kind, while in any agency building or any City of Port Washington vehicle. This includes civilian employees who have been issued a license to carry a firearm.

II. Constitutional Requirements

- A. Miranda Rights. A Department issued card describes these rights and a waiver to such rights. 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 reading of Miranda are to be documented in detail. Even after a voluntary admission is made, the officer will give him/her Miranda Rights. As stated in the Waiver, "...no promises or threats have been made...and no pressure or coercion...has been used."
- B. Right to Know. Every person has a right to know why s/he is arrested. If the charge is not evident to the person, the arresting officer will inform the arrestee why s/he is arrested within a reasonable time frame, and if the arrest is for a warrant, the officer will inform them of its contents.
- C. Arraignment. Person jailed: Ozaukee County jail personnel with D.A. cooperation, routes prisoners through Intake Court on a daily basis; the same is true of Port Washington Police Department Records personnel notifying the Mid-Moraine Municipal Court Clerk of persons held on City violations.

Persons released are given a timely court date/time and projected bond/fine amount if available.

A supervisor may contact a D.A./judge on call for consultation and recommendations.

D. Pretrial Publicity.

Right to privacy/freedom of information is carefully balanced to negate publicity that may prejudice trials.

Release of information is controlled by General Order 10.2.1.

Information released will be minimal, limited to facts of the incident without opinion/anticipated conclusions. No information is released that may jeopardize an on going investigation, witnesses or statements, victims, or deceased parties without next of kin notification.

**THE BILL OF RIGHTS
UNITED STATES CONSTITUTION
FIRST TEN AMENDMENTS**

AMENDMENT ONE

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition Government for a redress of grievances.

AMENDMENT TWO

A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

AMENDMENT THREE

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT FOUR

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT FIVE

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT SIX

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defense.

AMENDMENT SEVEN

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

AMENDMENT EIGHT

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT NINE

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT TEN

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

MIRANDA RIGHTS

Before we ask you any questions, you must understand your rights.

You have the right to remain silent.

Anything you say can and will be used against you in court.

You have the right to talk to a lawyer before questioning and have the lawyer with you during questioning.

If you cannot afford a lawyer and want one, a lawyer will be appointed for you without charge prior to any questioning.

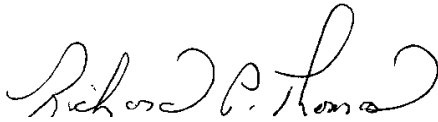
If you decide to start answering questions at this time, you can stop anytime during the questioning.

WAIVER OF RIGHTS

**I have read, or have had read to me, this statement of my rights.
I understand what my rights are.**

I am willing to answer questions at this time.
I do not want a lawyer at this time.
I understand and know what I am doing.

APPROVED:



Chief Richard P. Thomas

DATE:

5/5/09
