

Arizona Peace Officer Standards and Training

Basic Curriculum Model Lesson Plan

LESSON TITLE: OFF-DUTY OFFICER SAFETY AND RESPONSIBILITIES 3.2

SUBJECT:	Off-Duty Officer Safety and Responsibilities
AZ POST DESIGNATION:	3.2
HOURS:	2
COURSE CONTENT:	The student will receive instruction and participate in an instructor-led discussion regarding officer safety, tactical considerations and appropriate actions consistent with departmental policy on off-duty law enforcement response.
PERFORMANCE OBJECTIVES:	<p>Upon completion of this course of instruction, students using notes, handouts, and other support materials as references, within the allotted time, will:</p> <ul style="list-style-type: none">3.2.1 The importance of departmental policy on off-duty response. The nature and types of common off-duty encounters including:<ul style="list-style-type: none">A. Directly involved encounter.B. Directly observed encounter.C. Citizen report of criminal activity to an off-duty officer.D. Officer/citizen confrontation.3.2.3 Off-duty tactical considerations including:<ul style="list-style-type: none">A. Being “made” or identified as a peace officer.B. The availability of equipment and assistance.<ul style="list-style-type: none">1. Less lethal options.2. Restraint devices.3. Communications.4. Training and planning for the off-duty encounter.C. Family safety and preparedness.

D. Identifying yourself as a peace officer:

1. To suspects.
2. To witnesses.
3. To responding law enforcement officers.

E. Victim/witness mentality vs. officer mentality.

3.2.4 Accountability – even when off duty.

DATE FIRST PREPARED January 1997

PREPARED BY: Sgt. R. Van Galder, Mesa P.D.

REVIEWED – **REVISED**: Officer Fred Cushman, Tucson P.D. DATE: January 2001
REVIEWED – **REVISED**: Tom Hammarstrom DATE: July 2002
REVIEWED – **REVISED**: AZ POST (Word) DATE: January 2003
REVIEWED – REVISED: SME Committee DATE: July 2004
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REVIEWED – REVISED: Lt. Dave Kelly, ALEA DATE: November 2009
REVIEWED – **REVISED**: SME Committee DATE: May 2010
REVIEWED – **REVISED**: SME Committee DATE: November 2011
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REVIEWED – REVISED: DATE:
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AZ POST – APPROVAL: Richard Watling DATE: November 2014
AZ POST – APPROVAL: Mandy Faust DATE: March 2021
AZ POST – APPROVAL: Lori Wait DATE: January 2022

INSTRUCTOR REFERENCES: Mesa P.D. G.O.

CLASS LEVEL: Student

TRAINING AIDS:

INSTRUCTIONAL STRATEGY: Interactive lecture, class discussion, overheads, videos and handouts.

SUCCESS CRITERIA: N/A

COMPUTER FILE NAME: 3.2 Off Duty Officer Safety

DATE RELEASED INTO THE SHARE FILE: August 2023

I. INTRODUCTION

- A. Instructor – (self) introduction.
- B. Preview learning activities.
- C. This doesn't apply to me. (Or does it?) **INSTRUCTOR NOTE:** *Examples can be changed.*
 - 1. It will not happen to me.
 - 2. It only happens in Los Angeles, Chicago, New York and other big cities.
 - 3. On duty, you go to calls.
 - 4. Off duty, they come to you
 - 5. You are off duty two-thirds of the day.

https://www.youtube.com/watch?v=_sD7a8y_RBI

II. OFF-DUTY EXAMPLES

- A. Numerous recent local events:
 - 1. Glendale, November 2019 road rage incident. Suspect Paul Bennet nearly crashed into an off-duty officer, then followed him to Circle K and pointed a gun at him.

https://www.azfamily.com/news/phoenix-man-points-gun-at-off-duty-officer-at-glendale-circle-k-police-say/article_63013e22-1184-11ea-8157-37f6337e86a5.html
 - 2. Chandler P.D. – fight with boxer Michael Carbajal.

<https://apnews.com/article/764e26992ae60609ff784d8517a839cb#:~:text=CHANDLER%2C%20Ariz.,gas%20station%20early%20Monday%20morning.>
 - 3. Border Patrol, May 2020, shot suspect Codey Foy, who was being chased by Maricopa PD. After release, Foy said he wanted to find the home of the agent to confront him about it.

https://www.azfamily.com/news/manhunt-suspect-shot-in-officer-involved-shooting-in-maricopa/article_9cf48ae0-8f50-11ea-a2b8-3ffb0b935c05.html
 - 4. The probability of being involved in an off duty incident is much lower than being in an on duty incident; however, the risks involved in an off duty incident increase exponentially due to the lack of resources and equipment. **INSTRUCTOR NOTE:** *Refer to AIMS data for current statistics on off duty officer incidents.*

- B. An armed, off duty police officer, is entering a bank when he realizes the bank is being robbed at gunpoint by two suspects. The first suspect is armed with a handgun and is inside the bank near the teller counters. The second suspect is near the door securing the escape. There are two customers in the bank and one teller.

https://www.youtube.com/watch?v=TZPOxyQ_Z4E

1. When the second suspect looks back and sees the officer, the officer makes a decision to draw his weapon and confront both suspects.
 2. The second suspect submits, raises his hands and steps off to the side, allowing the off duty officer to confront the first suspect directly.
 3. The first suspect appears to be complying. He puts the weapon in his pocket, puts one hand up and gets face down on the ground.
 4. Once on the ground, the first suspect pulls the weapon from his pocket, points it in the direction of the off duty officer, and fires.
 5. The off duty officer returns fire, striking the first suspect. The suspect eventually flees from the bank.
 6. The off duty officer was notified by the bank; he was no longer wanted as a customer because he violated their policy of not intervening during a robbery.
 7. The bank reevaluates their position after news coverage, and allows the off duty officer to remain a customer.
 8. What if someone else would have been injured during this incident?
 9. Even decisions based on good faith have the potential for adverse administrative, criminal, civil, and even emotional consequences.
- C. An officer's actions and decisions in an off-duty incident directly affect the officer and the employing agency, their friends and family.

<https://www.cbs58.com/news/detective-shot-multiple-times-while-picking-up-pizza-during-super-bowl-police-say>

Video of Chicago Police Officer charged in off duty shooting

<https://www.chicagotribune.com/news/criminal-justice/ct-chicago-police-lawsuit-cabrera-shooting-20210111-ti4ide4ovvb3jbyen43uvqfcm-story.html>

<https://www.chicagotribune.com/news/breaking/ct-chicago-police-officer-bunge-shooting-lawsuit-20210210-ucahtu5imzgz7cez25dasock4i-story.html>

1. The officer's ability to anticipate and survive in an off-duty encounter can mean life or death to those closest to him/her.
2. This issue alone makes an off-duty incident one of the most critical events an officer can become involved in.
3. Officer safety off duty is not paranoia, but good common sense.

D. Civil liability/department policy.

P. O. 3.2.1

1. You must clearly understand your agency's requirements regarding off-duty conduct.
INSTRUCTOR NOTE: Have agency specific policies available. Ask students if they know their department's policy.
2. Civil lawsuits are common for off duty incidents, because it will be alleged you acted under the color of your authority, even off duty.
3. Most agencies/cities/counties are unwilling to take a chance on a sympathetic jury providing a multi-million-dollar lawsuit.
4. If there is a question that the off duty officer acted beyond the authority of the law or outside of department policy, the agency may resist defending the officer in a lawsuit.

III. THREATS TO LAW ENFORCEMENT

A. Various Threats (<https://www.dictionary.com/browse/extremist>)

1. Violent Gangs such as Outlaw Motorcycle Gangs.
 - a. January 2016, Denver incident with Mongols OMG left one dead and 7 others shot or stabbed. Brawl was with another biker club, largely made up of off-duty officers.
 - b. Mongols blamed the officers for what happened, saying the cop club started the brawl.

B. Various Extremist Groups.

1. Definition of Extremist.
 - a. A person who goes to extremes, especially in political matters.

- b. A supporter or advocate of extreme doctrines or practices.
- 2. Extreme conservative anti-government groups.
 - a. Mindset: views nearly all modern governments as illegitimate.
 - b. How far extreme the mindset is varies, from harassment (false liens, etc), outright assassination of police officers, and publicly advocating for civil war.
- 3. Extreme liberal anti-government groups.
 - a. Fervent belief the government, and the police especially, are systemically racist and unjust.
 - b. Example: August 2020, a Wauwatosa Wisconsin Police Officer had 50+ rioters show up at the home of his girlfriend, beat him and his girlfriend, and fire a shotgun through the back door of the home. They chose his home because he was involved in three on duty shootings.
- 4. Lone Wolf Spree Killers.
 - a. Off duty Arizona officers were among those shot by the Mandalay Bay shooter in 2017.
 - b. Often no motive besides maximizing body count.
- 5. Online threats.
 - a. Harassing police, other public officials and their family is a common tactic.
 - b. Suspects often use publicly available information to obtain even more details, and share it online, where it is conveniently available to everyone (including previously mentioned groups).
 - c. This practice is known as “doxing,” and anti-police groups and individuals use it to harass officers at home.
 - d. Not much can be done to fix it after the fact, prevention is the best step!

IV. OFF-DUTY ENCOUNTERS

- A. The officer can become fully involved, be a witness, notify on-duty officers or just walk away.
 - 1. Any decision requires a mature and realistic evaluation of the potential to successfully

intervene and conclude the situation.

2. The question you must ask yourself is: Coupled with the equipment you have available and no back up, what are your realistic chances of success? What defines success in each situation is different!
- B. These events illustrate the consequences which can occur from an officer trying to intervene when not directly involved in the incident. **INSTRUCTOR NOTE:** *Play the video clips in sections to dissect the Officer's responses. Discuss with the class.*
1. In each case, the officer was not directly involved and made a conscious decision to take police action:

<https://www.usatoday.com/story/news/2020/06/15/julian-keen-jr-florida-wildlife-conservation-officer-fatally-shot/3192052001/>
 - a. June 2020, Off Duty Florida Fish and Wildlife Officer Julian Keene decided to follow a reckless driver.
 - b. When Keen confronted the driver, he was shot and killed.
 2. In 2012, an off-duty ATF agent John Capano shot at a pharmacy robber in New York.

<https://bja.ojp.gov/program/badgeofbravery/recipients/2011/john-capano#:~:text=On%20December%2031%2C%202011%2C%20Special,Pharmacy%20in%20Seaford%2C%20New%20York.>
 - a. He successfully shot the robber, who was armed with a pellet gun.
 - b. A retired lieutenant mistook the agent for a suspect, and attempted to take the agent's gun away. As this happened, the gun went off and killed the agent.
 3. Two newly wedded off duty police officers stop an armed robbery at a fast food restaurant.

<https://www.youtube.com/watch?v=8j8TOM8F-g>
 - a. The officers quickly developed a plan as they were observing the robbery in progress.
 - b. Both had their weapons in an easily accessible area.
 - c. Both officers utilized their training to end the confrontation successfully.
 - d. Often, the best plan is to be a good witness. **INSTRUCTOR NOTE:** *Stress that each student familiarize themselves with their agency's policies regarding off*

duty interactions.

- C. The question remains, when should an off-duty officer become involved?
 - 1. It must be answered by each officer based upon:
 - a. The specific set of circumstances being faced.
 - b. Experience and personal preparation.
 - c. Safety considerations.
 - d. Department policies.
 - 2. Nothing can replace solid common sense.

IV. FOUR (4) TYPES OF OFF-DUTY ENCOUNTERS

P. O. 3.2.2

A. The Directly Involved Encounter.

P. O. 3.2.2A

B. The officer is the victim of a crime.

- 1. Informal research shows that this is not the deadliest situation for off-duty officers.
- 2. The officer is usually taken by surprise or caught off guard and cooperates with the suspect.
- 3. The suspect gets what he/she wants and flees.

C. The Directly Observed Encounter.

P. O. 3.2.2B

- 1. An encounter that affects others around the officer, but not the officer directly.
- 2. This type of incident has proven time and again to be the deadliest of all off-duty situations.
 - a. The suspect is under stress and may be under the influence of alcohol or drugs and is usually startled by the officer's actions.
 - b. In a number of incidents, the officer failed to seek cover or concealment when contacting the suspect, giving the suspect a distinct advantage.

D. Becoming Aware of Criminal Activity.

P. O. 3.2.2C

- 1. An officer becomes aware of the activity, but has not personally seen it.

- a. An incident where an off-duty officer was called by a neighbor who lived a few houses away and said he/she heard noises outside of his/her window.
 - b. Instead of calling the local agency, the officer elected to investigate the situation on his/her own.
 - c. When he/she stepped into the backyard, he/she was immediately shot and killed by the suspect.
2. Overconfidence, unrealistic perception of danger, tactical error and alcohol all contributed to the officer's death.
 3. This incident should have been handled by the local on-duty officers and although a shooting may still have occurred, the on-duty officers would have been in a much better position to deal with it.
- E. The Officer/Citizen Confrontation. **P. O. 3.2.2D**
1. Often called the "chief's nightmare."
 - a. An encounter between an off-duty officer and a citizen that is either completely provoked by the officer or the officer has significantly contributed to the circumstances in a negative manner.
 - b. Can include various situations, all of which cause serious problems for the officer and his/her agency.
 2. Intoxicated officer.
 - a. An intoxicated sergeant accidentally shot a friend with his/her issued weapon, seriously wounding the friend.
 - i. The agency refused to defend the sergeant and the sergeant became solely responsible for the costs of his/her defense.
 - ii. The court of appeals upheld the decision.
 - b. An off-duty intoxicated sergeant was involved in a head-on traffic collision killing two (2) people. The sergeant is currently in state prison.
 - c. An intoxicated officer was involved in a bar fight when the officer's gun accidentally discharged, killing the officer's adversary.
 - d. The resulting lawsuit cost the officer \$250,000 and the officer's department \$17

million.

- e. An officer working in an off duty capacity at a local night club, was involved in a deadly force encounter. During the investigation it was discovered the night club had closed and the officer stayed late to escort the manager to the bank to make a deposit. While waiting, the officer consumed multiple alcoholic drinks. The shooting took place after the officer had been drinking.

3. Criminal behavior.

- a. In June 2019 Kent County Deputy Kenyatta Weaver unjustifiably pulled a gun during a brawl at a trailer park.
 - i. Lied to investigators and caused tremendous damage to public trust.
 - ii. Resigned a year later after leaving the scene of an accident, saying he lied to “see if I could get away with it.”

4. Road rage.

- a. 24 year Baltimore Police Officer Kevin Miller pointed a gun at a pedestrian who spilled tea on his car.
- b. The pedestrian said it was accidental, he spilled the tea trying to avoid being hit by another car.
- c. Miller was sentenced to five years in prison over spilled tea.

V. IMPORTANT OFF-DUTY CONSIDERATIONS

P. O. 3.2.3

A. Being identified while off duty (common profile).

P. O. 3.2.3A

- 1. Fanny pack.
- 2. Short hair, mustache, conservative dress, weapons not properly concealed in clothing, etc.
- 3. Wearing police-related equipment or clothing.
- 4. Wearing police gear/uniform to and from work in your personal vehicle.
 - a. Suspects followed a local sergeant home from work to learn where he lived.
 - b. The suspects later returned to the home and the sergeant’s car was burglarized and his SWAT gear stolen.

- c. Can also cause problems ranging from false accusations of traffic violations to assault.

B. On duty vs. off duty.

P. O. 3.2.3B

- 1. On-duty equipment: Gun, radio, handcuffs, less lethal (TASER, baton, pepper spray), back-up units available, visible uniform, vest, etc.
- 2. Off-duty equipment: Gun, badge – maybe less lethal if you choose to carry any (such as compact pepper spray).

- a. Do you have enough ammo for a multi-suspect gun fight?
- b. Are you carrying your gun in a fight worthy holster? Will it retain your weapon securely if you end up fighting someone?

https://www.youtube.com/watch?v=pbXzmf_dHVVU

- c. **If you can't retain your weapon, you are just a "walking holster" for someone else!**
- d. Do you have the tools and skills needed to deal with a non-lethal problem? Not every situation you could get involved in is a "gun problem" or even a potential use of force (more likely to use medical equipment than any weapons or force).
- e. No radio, back up, visible uniform, vest, etc.
 - i. You mistakenly think people should recognize that you are an officer even when off duty.
 - ii. Lack of resources we take for granted on duty.

- f. Identifying yourself not only to suspect(s), but to arriving uniformed officers.

P. O. 3.2.3D

- i. In many cases involving off-duty arrests and uses of force, identification is a major issue - officers have been killed by other officers because they weren't identifiable as officers. **INSTRUCTOR NOTE:** *When in plain clothes, officers should wear badges hanging around their neck, not on the belt. Something that may provide 360 degree identification such as a visible beanie. Arizona law which allows for enhanced penalties against suspects who attack off duty cops only applies IF the suspect knows the victim was an officer.*
- ii. It is critical that an officer can demonstrate that the suspect knew he/she

was an officer.

- iii. Have I.D. readily accessible to non-gun hand.
- iv. To responding officers, you are just a person pointing a gun at another person.
- v. Use plain language, no codes.

3. What jurisdiction are you in? Which agency?

- a. Many officers do not work and live in the same beat/district.
- b. Chances are higher of contacting past suspects while off duty if you do work and live in the same beat/district.
- c. Undercover assignments (who are you dealing with)?

<https://www.odmp.org/officer/17878-corporal-mario-roberto-jenkins>

- i. Corporal Mario Jenkins was working a plainclothes assignment at a university football game.
- ii. Jenkins got into a scuffle with students, and his gun went off.
- iii. Jenkins was shot and killed by an Orlando officer, believing him to be a gunman. **INSTRUCTOR NOTE:** *Plain clothes or off duty, remember to cooperate with responding officers.*

C. Ways to limit projecting that you are an officer:

- 1. Carry your badge wallet and personal wallet separate. Avoid the “combo” wallet.
- 2. No business cards in your personal wallet.
- 3. Keep house keys/work keys separate from car keys.
- 4. During any type of robbery, what might you lose:
 - a. House or work keys.
 - b. Police identification.
- 5. No bumper stickers (FOP/union/DPS).

- a. License plates that are codes (9IM 918).
- b. Plate frames “My other car rolls code 3.”
- 6. No equipment visible in personal vehicles.
 - a. Start this habit in the academy.
 - b. Do NOT make yourself an easy target for vehicle burglary/theft.
- 7. Apply a similar mentality to online behavior.
 - a. Don’t share posts or videos “outing” you as law enforcement, making your home easy to locate, or detailing travel plans.
 - b. Speak to your family about these precautions and encourage them to do the same.
 - c. Be cautious of the things you say and post on your social media, which could indicate your affiliation with law enforcement.
 - d. Consider making your social media private.
 - e. Know your agency’s policies and rules on social media.

VI. FAMILY SAFETY AND CONCERNS

P. O. 3.2.3C

- A. Advise family what to do if you are robbed or attacked when you are together.
 - 1. If it comes down to you having to react, will your children try to stay close to you?
 - a. Teach them about taking cover.
 - b. Teach them about how you will move away to get the suspect’s attention on you and away from them.
 - 2. Advise children to give the suspect any property he/she wants. They may not understand the danger they are in.
- B. Advise children not to say you are an officer. Actual statements made by children:
 - 1. “Mommy, your gun is in your purse.”
 - 2. “Do something daddy, you’re a cop.”

- C. Only resort to police action if it becomes absolutely necessary for your family's safety.
 - 1. Talk with your family about expectations if it becomes necessary for you to take police action while off duty.

VII. VICTIM/WITNESS MENTALITY VS. OFFICER MENTALITY

P. O. 3.2.3E

- A. In the majority of the cases, the best option is to be a good witness.
- B. No officer likes being a victim or not taking action.
- C. Be a victim/witness until it is either unsafe or the suspect is going to learn that you are an officer and may harm you or your family.

VIII. OFFICER SAFETY AND CONCERNS

- A. Any off-duty situation must be approached sober. Refer to previously discussed incidents.

P. O. 3.2.4

- B. Family safety is the NUMBER ONE concern as well as the safety of citizens.
 - 1. You have a chance if you see it coming, what you do not know or see is the danger. The "Cooper Color Codes" still apply off duty, and if you see it coming, you may be able to avoid it entirely. ***INSTRUCTOR NOTE:*** Discuss the Cooper Color codes in plain language.
 - a. Do not make yourself an easy target for revenge or retaliation while off duty. If you see it coming, you have a chance to react, to fight and to survive.
 - b. The Police profession is inherently dangerous. Off duty actions increase the danger due to lack of resources and equipment.
- C. Be a good witness, do not get involved unless immediate police action is necessary.
- D. Train, and be proficient, with all types of holsters or firearms you carry. **P. O. 3.2.3B**
 - 1. Train with what you actually carry and what you actually wear. Realize the limitations of your equipment and manpower.
 - a. Drawing from concealment is different enough that you won't be good at it unless you practice. (Where is your gun? Ankle holster? Shoulder holster? Purse?)
 - b. Training with your off-duty gear will give you a better idea what "works" and what doesn't. Many officers unfortunately carry in impractical ways with bad holsters because they haven't trained enough to see how cumbersome it is.

- c. Equipment for “non-lethal” situations: pepper spray, flashlight, medical, handcuffs?
 2. Understand that under stress, you will perform the way you train. Example:
 - a. You have a concealed carry holster with a snap retention device.
 - b. You always leave your holster unsnapped during your range drills out of convenience.
 - c. When you leave the range, you holster and snap your retention device.
 - d. In a situation where you are under stress and need to draw from your concealed holster, your training will take over and it may lead to a delay in accessing your weapon.
- E. Good rule of thumb: **If you carry your badge, carry your gun.**
 1. An unintended identification of you as an officer can be fatal.
 2. August 14, 1997, a L.A.S.D. Deputy and his fiancé go to a salon.
 - a. Two (2) armed men enter the store to rob it.
 - b. As they start to take personal items from the victims, they locate his badge in his pocket.
 - c. He was unarmed and said he worked in a jail facility, but they shot him in the back of the head anyway.
 - d. He died two (2) days later.
 3. The potential hazard of misidentification also exists.
 4. A number of unfortunate incidents have occurred where off-duty officers have taken action, only to be shot by a citizen or other officers who did not recognize the person as being in law enforcement.
- F. Accountability even off-duty. **P. O. 3.2.4**
 1. We are one (1) of the few professions where employees are held accountable for their behavior off duty.
 2. Fair or unfair, be aware that because of the extreme power possessed by an officer, the public and an agency will hold off-duty officers accountable for any improper actions.

3. Any off-duty situation should be approached in a sober, clear-headed manner.
4. Good common sense is paramount in evaluating one's potential involvement in any off-duty situation.
5. We have all worked hard to achieve our position and are proud to be one (1) of the protectors of society.
6. It can all be lost in a moment of rage, misjudgment or carelessness.

IX. CONCLUSION

- A. Review of learning activities.
- B. Final questions and answers.
- C. Instructor closing comment(s).