



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

410 – ISSUE OF WORTHLESS CHECK

GENERAL ORDER: 2012-04
ISSUED: February 7, 2012

EFFECTIVE: February 7, 2012

REVIEWED/APPROVED BY:
Captain Regina Howard
DATE: June 25, 2015

ACTION: Amends General Order 2010-08 (February 16, 2010)

WILEAG STANDARD(S): NONE

410.00 PURPOSE

Although much of the law relating to the issue of worthless check is civil, the passer of such a check may occasionally be in violation of a criminal law. The purpose of this standard operating procedure is to establish a protocol for reporting the issuance of a worthless check.

410.05 DEFINITION - ISSUE OF WORTHLESS CHECK

Per Wis. Stat. § 943.24(1), an issuance of a worthless check occurs when a person issues a check(s) or other order of payment(s) that, at the time of issuance, he or she does not intend to pay.

410.10 GENERAL GUIDELINES

A. SMALL CLAIMS COURT

When a complainant either appears in person at a district station or calls with a complaint, and their complaint meets one of the following criteria, the member shall refer the complainant to small claims court:

1. Post dated checks (checks dated after the occurrence of the transaction except for payroll purposes);
2. Checks issued for past consideration, except payroll checks;
3. Third-party checks;
4. Checks issued to the complainant more than one year ago;
5. Checks where the complainant intends to assess punitive damages;
6. Checks issued by someone other than the authorized account holders;
7. Checks turned over to a collection agency
8. Checks processed through account verification services;
9. Checks in which partial payment has been accepted;
10. Checks issued for all illegal activity;
11. Checks drawn on an out-of-state financial institution

B. ISSUE OF WORTHLESS CHECK INVESTIGATION

1. When a complainant appears in person at a district station and their complaint involves an issue of worthless check complaint, verify that the check is not stolen,

counterfeit, or forged, and that it does not meet the small claims court referral criteria in section A above. You may have to research that the check(s) is not stolen, counterfeit, or forged, by contacting the issuing financial institution.

2. If the check(s) is determined to be worthless (e.g., non-sufficient funds – NSF, account closed) or a telephone call complaint is received and the check(s) is not stolen, counterfeit, or forged, provide or advise the complainant with an *Issue of Worthless Check Packet* (form PI-33E). The IOWC packet, which contains the directions needed to file an IOWC complaint can be obtained at any police district station or at the Milwaukee Police Department website at www.milwaukee.gov/police.
3. If the financial loss is over \$5,000.00, the officer shall inform his/her district commander who shall make notification to the South Investigations Division supervisor.
4. The IOWC packet should be reviewed for acceptance for potential prosecution. Review should be based on the previously outlined IOWC policies and Wis. Stat. § 943.24 (see bottom of IOWC questionnaire, page 3 of 7).
5. Collect a copy of the five-day demand letter, certified mail receipt, and original check (or financial institution issued replacement check) from the complainant. Make two copies of each of these items and place originals on MPD inventory. Keep one copy for your investigation and send the other copy, along with the original IOWC packet to the Records Management Division to be scanned into Intellinetics. Keep a copy of the IOWC packet for your investigation.
6. Contact the check writer by phone, in person, or letter to obtain his/her statement (suspect letter found on Directives Intranet under IOWC link). This may be all that is needed for the check writer to make restitution and resolve this matter. If the complainant agrees to a partial payment, the complaint becomes a civil matter. Formal IOWC charges should be filed if restitution is not made within a reasonable amount of time.
7. When formal charges are to be filed, make a request for financial institution records on the check writer's account (fax letter found on Directives Intranet under IOWC link).
8. If financial institution records show that the check was worthless at the time the check was written, proceed with a formal complaint (generally an order-in) at the Milwaukee County District Attorney's Office.



EDWARD A. FLYNN
CHIEF OF POLICE