

## **1.1 Bad Checks**

### **I. Policy**

Bad checks create a financial loss to both businesses and individuals within the community. The Defiance Police Division does recognize the need for enforcement through the prosecution of an offender when a criminal offence does take place.

### **II. Purpose**

To establish procedures for the investigation and prosecution of criminal offenders for the charge of passing bad checks and other fraud related crimes such as forgery and or theft.

### **III. Procedure**

#### **a) General Guidelines**

- (1) No checks will be accepted which are over ninety days old from receipt of the check by merchant or victim, unless the check is stolen, forged or otherwise used in the commission of a felony.
- (2) No agreement for payment has been entered into by the merchant or victim. If this has occurred, the merchant must use the civil law system.
- (3) The Defiance Police Division will receive no monies as a result of their criminal investigation nor will they solicit payment of said check.
- (4) Bad checks turned over to the police Department will be prosecuted at the direction of the Law Director or his designee.
- (5) Once a criminal charge is filed on behalf of the victim or merchant, the charges can only be dismissed by the court.
- (6) A drivers license number must be recorded on the check for proof of who wrote the check.
- (7) All criteria, as listed below, must be met for the individual check to be investigated prior to being turned over to the Defiance Police Department.
- (8) All monies spent for mailings, fees and other charges are the responsibility of the complainant. However, these fees will be included into the officer report if the subject is prosecuted. The Defiance Police Department shall bear no additional costs for the prosecution of a criminal case of this nature.

#### **b) Account Closed Checks**

- (1) The merchant or victim must check with the financial institution to see when the account was closed as a part of their normal procedures.

(2) If the check was written after the account has been closed, charges may be filed on the writer of the check.

(3) If the check was written prior to the close date of the account, the check will be treated as a non-sufficient and follow the procedure outlined in A.

**c) Non-Sufficient Funds**

(1) A certified ten-day notice will be sent out by the merchant and/or victim receiving the bad check to the last known address of the subject writing the check.

(2) If the signature card comes back signed, indicating receipt, the subject has ten days to make good on the check. If this check is not paid, this may be turned over for prosecution.

(3) If the receipt of certified comes back as unclaimed or not served, the merchant or victim must then send a letter regular mail and affix a certificate of mailing to the item showing proof of mailing.

**d) Stolen, Forged or Altered Checks**

(1) These checks should be turned over to the Defiance Police Department immediately to ensure a time line consistent with successful prosecution.

(2) Checks of this nature should be maintained as evidence and processed as same.

(3) An affidavit of forgery should accompany all checks turned over to the Police Department and should be notarized and received from the financial institution where the account is made.

**e) Out of State Checks**

(1) Will be investigated on a case by case basis.

**BAD CHECK  
TEN DAY NOTIFICATION**

TO \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Your Check # \_\_\_\_\_ Dated \_\_\_\_\_

In The Amount Of \_\_\_\_\_ Drawn On \_\_\_\_\_

Has been returned to us by your Bank marked:

\_\_\_\_\_ Insufficient Funds

\_\_\_\_\_ Account Closed

\_\_\_\_\_ Payment Stopped

Please accept this letter as demand upon you for payment of \$ \_\_\_\_\_ plus Service Fees of  
\$ \_\_\_\_\_ for a total of \$ \_\_\_\_\_..

Only Cash, Money Order or Certified Check will be accepted. If payment is not made within Ten days  
of receipt of this letter, we will refer this matter to the Defiance Police Department for prosecution.

You will receive no further communications about this check. We look forward to receiving your  
payment.

Sincerely,