



# EVANSVILLE POLICE DEPARTMENT

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**EMERGENCIES**

Scott A. McElroy

**DIAL 9-1-1**

Chief of Police



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## Worthless Check Procedures

The City of Evansville, through actions by the Evansville Police Department and the City Attorney's Office, pursues a policy of vigorous enforcement of the city's ordinance against issuing worthless checks.

Although the Evansville Police department considers restitution an important part of the offenders' sentence, we are not a collection agency for worthless checks. The Evansville Police Department is not required to, nor will we accept every check returned to a merchant/victim. The Evansville Police Department will accept only those checks which are within the definitions of the worthless check ordinance. If the Evansville Police Department declines to accept a check or dismisses a worthless check complaint, the merchant may seek civil remedies against the check writer.

The Evansville Police Department will accept worthless checks for prosecution if we are convinced that we can prove all the elements necessary in court. Although most cases are resolved by an issuer pleading guilty without going to trial, we must assume every issuer will exercise their constitutional right to trial and be prepared to go to trial. It would be both unethical and illegal to charge a person with the offense of issuing a worthless check hoping that they plead guilty, if we knew that we could not prove guilt at trial.

Therefore, before the Evansville Police Department will prosecute for a worthless check violation, the merchant or victim must follow an established procedure.

The purpose of this information is to educate you on the procedures involved in prosecuting a worthless check writer and assure you that the Evansville Police Department will do everything possible to prosecute the worthless check writer. I hope the information provided herein will be of significant assistance.

Alert and knowledgeable citizens are always the first defense against all offenses - particularly worthless checks. Remember, worthless checks can be controlled with your help.

By following the instructions provided, you will greatly assist the Evansville Police Department in its efforts to prosecute worthless check offenders under the city ordinance. After reviewing these procedures, if you have any questions, please feel free to contact the Evansville Police Department at 608-882-2299.

Respectfully,

*Scott A. McElroy*  
Police Chief  
City of Evansville

## **Some quick tips to consider when taking a check:**

It is vital that you stress to your employees the importance of being thorough when accepting a check. If your establishment has set a policy for all customers then no one should have any reason to feel they are being treated unfairly. It is a good idea to have a "checklist" where a cashier can see it easily. It should include at least the following:

1. **Is it dated today?** Checks must be dated the same day they're given. Post-dated checks are not prosecutable.
2. **Is the signature legible?** Do **NOT** accept checks previously signed. Have them sign in your presence and compare with driver's license or other I.D.
3. **Is the address complete?** Require a permanent street address, not a P O Box number unless you know the writer.
4. **Can you confirm identity?** Every kind of I.D. can be forged. The most reliable are the ones with physical descriptions, photos, etc. If you are suspicious, ask the writer to hand you the license and while it's in your hand, ask his address and/or birth date. If it is not his license, he may be caught off guard and give the wrong information.
5. **Do written amounts and numbers correspond?** Banks will not honor checks with discrepancies.
6. **Is the I.D. used recorded?** Record on the check the type of I.D. and I.D. numbers as well as the clerk's initials who takes the check.

## **Checks to Avoid:**

The following checks usually will not be prosecuted as "worthless" checks:

- A check marked "refer to maker," "drawn against uncollected funds" or "unable to locate account";
- A post-dated check;
- A stop-payment check;
- A check on an out-of-state bank;
- A two-party check;
- A check more than sixty (60) days old;
- A check for less than five dollars (\$5.00);
- A check for which partial payment has been received;
- A check given in exchange for a returned check;
- A check which does not identify who accepted it;
- A check received in the mail;
- A check not passed within this county;
- A check not presented to bank within 30 days of issuance; and
- A check for which no 10-day notice was given. It is very important to get the information listed above.

## **Clues for Detecting Bad Checks:**

- Be careful of low series numbers on personal checks. About 85% of all uncollected "worthless checks" are new account numbers between 101 and 150.
- Check the finish of the black magnetic computer numbers on the bottom. Magnetic ink is very dull -- never shiny.
- Check the first four magnetic numbers to the left of the account number. Each area of the state has its own bank routing number -- **learn yours**.
- Look for at least one perforated edge. All checks except government or computer produced will be perforated.
- Beware of photocopied checks. The best sign of a photocopied check is shiny, tacky, uneven letters.
- Also beware of photocopied "color" on multi-color checks from large corporations.

## **Evansville Police Department Worthless Check Processing Procedure**

### **What information do I need if a customer pays with a check?**

If a customer is paying with a check for purchase of service or product there is some basic information that needs to be on the check. The customers full name including first, middle initial, and last name with either/or 1) their date of birth 2) driver's license number and the name of the state that issued the driver's license.

The clerk that receives the check should review the check to make sure the information is on the check and ask the customer if the address and/or phone number are correct. If the information has changed the clerk should record the correct information on the front of the check. The clerk should initial the check indicating that she/he viewed the check and received the check from the customer (it is suggested the clerk as the customer for two forms of identification before accepting the check as payment for product or service rendered).

### **I have tried to cash the check but the bank informs me the check is worthless, what should I do?**

The following check types **cannot** be prosecuted under current Wisconsin State Law:

**Post Dated Checks**

**Third Party Checks**

**Checks held at writers request**

**Checks for payment of past consideration (credit extended)**

You can turn the check over to your private collection agency for collection; you can perform the proper accounting transaction to indicate the debt as a bad debt; or perform some further tasks so as to prosecute the subject for issuing a worthless check.

### **What do I need to do to report a worthless check to the police department?**

If you have received a check indicating it is NSF, account closed, or marked some other way stating it is a worthless check you must perform the following steps if you wish the police department to prosecute the person for issuance of a worthless check.

1. Send a certified letter to the customer's address (with return receipt)
  - A. The letter has to indicate the check number issued, date written and whom it was written by.
  - B. The letter has to indicate the reason for the check being classified as worthless.
  - C. The letter has to provide a time frame in which payment of the check needs to be made.
  - D. The letter has to indicate the consequences of failing to correct the worthless check.
  - E. See sample form letter attached.
2. Determine a time frame when the check has to be paid by and adhere to the time frame. Under current City Ordinance of 82-3 943.24(1) the minimum amount of time that is required to be given to the customer to pay off a worthless check, is 5 days.
3. Indicate in the letter the statute number and ordinance number the person is subject to being arrested for in the form of a Municipal Citation 82-3; 943.24(1). Indicate the suggested bond amount is \$361.00 per each worthless check issued.

Provide the Evansville Police Department with copies of the check (front, back must indicate on the check NSF, Worthless, Account Closed, etc.) the certified letter sent (and results whether it was claimed or unclaimed) and proof of sending the letter certified.

4. The clerk's full name, date of birth (to include first, middle initial, last name) current address and home & work phone numbers.

**I report the check as being worthless and provide the police department with the proper paperwork, what is the time frame I have to do this in?**

The police department will prosecute worthless check complaints with the proper paperwork and information on the check, within **60 days** of the check being written. If any paperwork is missing or incomplete, a request will be sent to you asking for additional information. If this task is completed within the 60 day requirement, the police department will prosecute the case. If the check is over 60 days old or information is missing/incomplete and not returned to the police department within the 60 days, the police department will close the case marked as "no police action."

**Do I have to send the letter certified mail to the customer?**

Yes, the letter has to be sent *certified mail* per state statute and city ordinance.

**What should I do if the customer has been issued a citation for the violation and wants a receipt of payment of the worthless check(s)?**

If the customer has been issued a citation for the violation and has paid the check and wants a receipt, it is acceptable to issue a receipt of payment.

*NOTE: Per our Municipal Judge, all receipts being issued for payment of worthless checks have to be issued on company letterhead indicating it is a receipt and what the receipt is for with the manager's signature. This is being implemented to neutralize the possibilities of fraudulent receipts being used in court indicating the defendant has paid the check, when in fact the*

*defendant has not.*

**What do I do, if and when a customer attempts to pay the business or person (victim) for the worthless check ?**

We encourage you to always accept any type of payment offered, and issue a receipt. Advise the person to take the receipt to the Evansville Police Department. We will make a copy of the receipt for our file. Be sure the person accepting payment puts/his/her name on the receipt, so it can be verified later if need be. The business/person accepting payment must also supply the Police Department with receipt ASAP advising that the debt has been paid or partially paid. This only needs to be done in cases which NSF paperwork has been turned in to the Police Department, and police enforcement action has been initiated.

**The customer has paid for the worthless/bad check but not the service fee, what can I do?**

Currently the city is unable to collect or order the customer to pay the service fee. However, it is your discretion whether you wish to issue a receipt or not, when the customer enters your business and asks for a receipt of payment on a worthless check and the service fee is still outstanding.

**Can the police department prosecute a two party worthless check(s)?**

The police department is unable to prosecute two party worthless checks under the Evansville Municipal code of Ordinances. It is suggested that you do not accept two party checks. This is only a suggestion and your accounting practices should dictate on: 1) whether you will accept two party checks; 2) what to do if a two party check is classified as worthless.

**To summarize, what does the police department do when I report a worthless check?**

- a. Review the case to ensure the proper information was gathered.
- b. Review the letter and proof of the certified letter being sent.
- c. Assign a case number.
- d. Issue a citation for the violation.
- e. Mail a letter to you indicating the status of the case (arrest or not arrested)
- f. Further inquiries after the police department arrests a subject via municipal Citation should be directed to the Municipal Court Clerk at 608-490-0544.

*\*\*NOTE: The scope of the police department's function shall be to prosecute the defendant for the city ordinance violation. The police department is not acting as an agent of the business making the complainant for the collection of the debt owed. To obtain collection of the debt owed the matter needs to be discussed with the Municipal Court Clerk at 608-490-0544 or referred to a collection agency of your choice.*

Worthless Check Complaint

Check Number: \_\_\_\_\_

**Clerks Information:**

First Name: \_\_\_\_\_ Middle Initial \_\_\_\_\_

Last Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Address Street: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

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Check Number: \_\_\_\_\_

**Clerks Information:**

First Name: \_\_\_\_\_ Middle Initial \_\_\_\_\_

Last Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Address Street: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

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Check Number: \_\_\_\_\_

**Clerks Information:**

First Name: \_\_\_\_\_ Middle Initial \_\_\_\_\_

Last Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Address Street: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

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(Sample letter; To be on Business Letterhead if applicable)

To: \_\_\_\_\_

From: \_\_\_\_\_

Re: Worthless Check Number \_\_\_\_\_

Reason for Returned Check \_\_\_\_\_

On \_\_\_\_\_ you wrote check number(s) \_\_\_\_\_

which was returned to our establishment for \_\_\_\_\_

This check(s) and has been classified as worthless.

You have (\_\_\_\_\_) days from this date (\_\_\_\_\_) to make full payment of the check(s), including the processing fee of \$\_\_\_\_\_ for each check classified as worthless. If payment is not received within the stated time frame the matter will be forwarded to the Evansville Police Department for prosecution under the City of Evansville Municipal Code of Ordinances ss 82-1 which adopts WI ss 943.24(1), titled Issuance of Worthless Check(s).

When the check if forwarded to the police department for prosecution you face being arrested via a Municipal ordinance citation. The suggested bond amount per violation (per worthless check) is \$361.00. This is in addition to the payment of the check and the processing fee of \$\_\_\_\_\_.

Check Number \_\_\_\_\_ amount \$ \_\_\_\_\_ processing fee \_\_\_\_\_

Check Number \_\_\_\_\_ amount \$ \_\_\_\_\_ processing fee \_\_\_\_\_

Check Number \_\_\_\_\_ amount \$ \_\_\_\_\_ processing fee \_\_\_\_\_

Check Number \_\_\_\_\_ amount \$ \_\_\_\_\_ processing fee \_\_\_\_\_

Grand total (total amount \_\_\_\_\_ + processing fee \_\_\_\_\_) = Total \_\_\_\_\_

We encourage you to take the proper action to rectify this impending matter in hopes this can be resolved without forwarding the complaint onto the police department.

Sincerely,

Manager