

Milwaukie Police Department

Milwaukie PD Policy Manual

CRIMINAL JUSTICE CODE OF ETHICS

As a criminal justice officer, my fundamental duty is to serve humankind; to safeguard lives and property; to protect all persons against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all people to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. Without compromise and with relentlessness, I will uphold the laws affecting the duties of my profession courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence, and never accepting gratuities.

I recognize my position as a symbol of public faith, and I accept it, as a public trust to be held so long as I am true to the ethics of The Criminal Justice System. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession.

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MISSION STATEMENT AND CORE VALUES

It is the **Milwaukie Police Department's Mission** to protect life and property and treat all citizens with respect and dignity. Maintain and enhance community livability by implementing problem solving partnerships, actively educating the community to be safe and to maintain a public safety environment where integrity and high standards of professionalism prevail.

Core Values

- *Honesty*
- *Integrity*
- *Truthfulness*
- *Trust*
- *Commitment*
- *Sincerity*
- *Reliability*
- *Morality*
- *Responsibility*
- *Goal Oriented*

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CHIEF'S PREFACE

The Milwaukie Police Department's Policies and Procedures are crafted to provide members a value-guided response for public safety problems. The General Orders are considered a "living" document-they play an everyday role in the manner and effectiveness of this Department's day-to-day public safety mission.

Our Policy and Procedures are designed around two primary fundamentals; best practices; and local, State, and Federal laws. The high level of liability associated with the jobs we do require members to follow our Policies and Procedures to the best of their abilities. When a situation develops that is not covered by our Policies and Procedures, members should seek the guidance of a supervisor. Failure to act in accordance with the Milwaukie Police Policies and Procedures must be actions that are lawful, articulable and reasonable!

This Police Department is committed to living our values, values expressed in our General Orders. This basic philosophy of our Department is to do the right thing for the right reasons. Our General Orders support and promote that philosophy.

Luke P. Strait

Chief Of Police

Milwaukie Police Department

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Chapter 1 - Law Enforcement Role and Authority

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

Law enforcement officers are granted the authority to perform their function based on established legal authority. This department does not tolerate abuse of law enforcement authority.

100.2 PEACE OFFICER POWERS

Peace officers are granted authority by Oregon Revised Statutes to prevent and deter crime; arrest offenders; issue citations in lieu of custody; take custody of evidence of a crime, contraband or recovered stolen property; control the flow of traffic and preserve the peace and safety of the public.

Sworn members of this Department are peace officers pursuant to Oregon Revised Statutes 161.015. Peace officer authority extends to any place in the State of Oregon.

100.2.1 AUTHORITY TO ARREST

Pursuant to Oregon Revised Statutes 133.235:

- (a) A peace officer may arrest a person for a crime at any hour of any day or night.
- (b) A peace officer may arrest a person for a crime, pursuant to Oregon Revised Statutes 133.310 (1), whether or not such crime was committed within the geographical area of such peace officer's employment, and the peace officer may make such arrest within the state, regardless of the situs of the offense.
- (c) The peace officer shall inform the person to be arrested of the peace officer's authority and reason for the arrest, and, if the arrest is under a warrant, shall show the warrant, unless the peace officer encounters physical resistance, flight or other factors rendering this procedure impracticable, in which case the arresting peace officer shall inform the arrested person and show the warrant, if any, as soon as practicable.
- (d) In order to make an arrest, a peace officer may use physical force as justifiable under Oregon Revised Statutes 161.235, 161.239 and 161.245.
- (e) In order to make an arrest, a peace officer may enter premises in which the peace officer has probable cause to believe the person to be arrested to be present.
- (f) If after giving notice of the peace officer's identity, authority and purpose, the peace officer is not admitted, the peace officer may enter the premises, and by a breaking, if necessary.
- (g) A person may not be arrested for a violation except to the extent provided by Oregon Revised Statutes 153.039 and 810.410.

100.3 CONSTITUTIONAL REQUIREMENTS

All employees shall observe and comply with every person's clearly established rights under the United States and Oregon Constitutions.

Public Safety Certification

102.1 PURPOSE AND SCOPE

The Board on Public Safety Standards and Training requires that all sworn law enforcement officers employed within the State of Oregon receive Basic Certification within 18 months of appointment. (OAR 259-008-0060).

102.2 SUPERVISOR AND MANAGER CERTIFICATION

102.2.1 SUPERVISORS AND MANAGERS

In addition to basic certification, supervisors and mid-level managers are expected to meet the qualifications for DPSST Supervisory or Management Level Certification covered under OAR 259-008-0060; OAR 259-008-0060(14); OAR 259-008-0060(15). Supervisors must possess or be able to obtain in one (1) year of hire or promotion the DPSST Supervisory Level Certification. Mid-Level Managers must possess or be able to obtain in two years (2) of hire or promotion the DPSST Management Level Certification.

102.3 MAINTENANCE OF CERTIFICATION

In order to maintain certification, all active peace officers are required to meet on-going training requirements as specified in OAR 259-008-0065.

Active peace officers who hold Supervisory, Management or Executive certification must complete at least 24 hours of department-approved Leadership/Professional training every three years, as part of the on-going training required for all peace officers (OAR 259-008-0065).

Oath of Office

104.1 PURPOSE AND SCOPE

Officers of this department are sworn to uphold the federal and state constitutions and to enforce federal, state and local laws.

104.1.1 OATH OF OFFICE

Upon employment, all sworn employees shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer.

104.1.2 AFFIRMATION

I, (name), do solemnly swear that I will support the Constitution of the United States of America, the Constitution and Laws of the State of Oregon, the laws and ordinances of the City of City of Milwaukie, and the Rules and Regulations of the Milwaukie Police Department; and that I will, well and faithfully, discharge the duties of the office to which I have been appointed, in and for the City of City of Milwaukie, according to law, and to the best of my ability.

104.2 LAW ENFORCEMENT CODE OF ETHICS

All personnel of the Milwaukie Police Department are required to subscribe and adhere to the Law Enforcement Code of Ethics as presented in the introduction to this Policy Manual.

Policy Manual

106.1 PURPOSE AND SCOPE

The manual of the Milwaukie Police Department is hereby established and shall be referred to as "The Policy Manual" The Policy Manual is a statement of the current policies, procedures, rules, and guidelines of this department. All employees are to conform to the provisions of this manual. All prior and existing manuals, orders, and regulations which are in conflict with this manual are revoked, except to the extent that portions of existing manuals, orders, and other regulations which have not been included herein shall remain in effect where they do not conflict with the provisions of this manual.

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized, however, that police work is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances and information reasonably available at the time of any incident.

106.1.1 DISCLAIMER

The provisions contained in this Policy Manual are not intended to create an employment contract, nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Milwaukie Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or employees. Violations of any provision of any policy contained within this manual shall only form the basis for departmental administrative action, training or discipline. The Milwaukie Police Department reserves the right to revise any policy content, in whole or in part.

The City of Milwaukie's Personnel and Administrative Policy and Procedures will take precedent if a conflict arises between the City of Milwaukie Personnel and Administrative Policy and procedures and the Milwaukie Police Policy Manual.

106.2 RESPONSIBILITIES

The ultimate responsibility for the contents of the manual rests with the Chief of Police. Since it is not practical for the Chief of Police to prepare and maintain the manual, the following delegations have been made:

106.2.1 CHIEF OF POLICE

The Chief of Police shall be considered the ultimate authority for the provisions of this manual and shall continue to issue Departmental Directives which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

106.2.2 STAFF

Staff shall consist of the following:

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- Chief of Police
- The Captains
- Sergeants

The staff shall review all recommendations regarding proposed changes to the manual either through correspondence prior to or at staff meetings.

106.2.3 OTHER PERSONNEL

All department employees suggesting revision of the contents of the Policy Manual shall forward their suggestions, in writing, to their Sergeant who will consider the recommendation and forward to the Administrative Captain.

106.3 FORMATTING CONVENTIONS FOR THE POLICY MANUAL

The purpose of this section is to provide examples of abbreviations and definitions used in this manual.

106.3.1 ACCEPTABLE ABBREVIATIONS

The following abbreviations are acceptable substitutions in the manual:

- Departmental Directive may be abbreviated as "DD."
- Policy Manual sections may be abbreviated as "Section 106.X" or "§ 106.X."

106.3.2 DEFINITIONS

The following words and terms shall have these assigned meanings, unless it is apparent from the content that they have a different meaning:

Adult - A person 18 years of age or older.

C.F.R. - Code of Federal Regulations

Child Welfare - Department of Human Services, Child Welfare.

City-The City of Milwaukie

Department/MPD - The Milwaukie Police Department

DHS - Department of Human Services

DMV - The Department of Motor Vehicles

Employee/Personnel - Any person employed by the Department.

Juvenile - Any person under the age of 18 years.

Manual - The Milwaukie Police Department Policy Manual

May - Indicates a permissive, discretionary or conditional action.

Member - Any person who is employed or appointed by the Milwaukie Police Department, including sworn officers, reserve officers, non-sworn employees and volunteers.

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OAR - The Oregon Administrative Rules

Officer/Sworn - Those employees, regardless of rank, who are sworn employees of the Milwaukie Police Department.

On-Duty - Employee status during the period when he/she is actually engaged in the performance of his/her assigned duties.

Order - A written or verbal instruction issued by a superior.

ORS - The Oregon Revised Statutes

OSP - The Oregon State Police

Rank - The job classification title held by an officer.

Shall or Will - Indicates a mandatory action.

Should - Indicates a generally required or expected action, absent a rational basis of failing to conform.

U.S.C. - United States Code

106.3.3 DISTRIBUTION OF MANUAL

An electronic version of the Policy Manual will be made available to all employees on the department network. The electronic version will be limited to the viewing and printing of specific sections. No changes shall be made to the electronic version without authorization. A hard copy of the most current policy manual will be kept in the squad room.

106.4 MANUAL ACCEPTANCE

As a condition of employment all employees are required to read and obtain necessary clarification of this department's policies. Members are required to accept the Policy Manual through Lexipol acknowledging that they have received a copy or have been provided access to the Policy Manual and understand that they are responsible to read and become familiar with its contents.

106.4.1 REVISIONS TO POLICIES

All employees are responsible for keeping abreast of all Policy Manual revisions. The Administration Captain will forward revisions to the Policy Manual as needed to all personnel via electronic mail. Each Employee shall acknowledge receipt by return e-mail, review the revisions and seek clarifications. Each Supervisor will ensure that employees under his/her command are aware of any Policy Manual revisions.

Chief Executive Officer

107.1 PURPOSE AND SCOPE

All law enforcement Chief Executive Officers employed within the State of Oregon are required to meet specific requirements for appointment. This policy provides guidelines for the appointment of the Chief Executive Officer of the Milwaukie Police Department, who is required to exercise the powers and duties of the office as prescribed by state law (OAR 259-008-0060).

107.2 POLICY

It is the policy of the Milwaukie Police Department that the Chief of Police meets the minimum standards for exercising his/her authority granted by law.

107.3 CHIEF OF POLICE REQUIREMENTS

The Chief of Police of this department, as a condition of employment, should have, within two years of appointment, successfully obtained Executive certification through the Department of Public Safety Standards and Training (DPSST) and be licensed by DPSST.

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

The organizational structure of this department is designed to create an efficient means to accomplish our mission and goals and to provide for the best possible service to the public.

200.2 DIVISIONS

The Chief of Police is responsible for administering and managing the Milwaukie Police Department. There are three divisions in the Police Department as follows:

- Administration Division
- Operations Division
- Investigation Division

200.2.1 ADMINISTRATION DIVISION

The Administration Division commanded by a Captain whose primary responsibility is to provide general management direction and control for the Administration Division. The Administration Division consists of the Detective Division, Technical Services, Support Services, Property Division and Administrative Services.

200.2.2 OPERATIONS DIVISION

The Operations Division commanded by a Captain whose primary responsibility is to provide general management direction and control for that Division. The Operations Division consists of Uniformed Patrol and Special Operations, which includes Traffic, Police Reserves, Cadets, and Communications Center oversight.

200.2.3 CRIMINAL INVESTIGATIONS DIVISION

The Investigation Division is commanded by a Detective Sergeant, under supervision of the Administrative Captain and whose primary responsibility is to provide general management direction and control for the Investigation Division. The Investigation Division consists of the Investigations Division, Crime Analysis Unit, and Forensic Services.

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all personnel in the Department. During planned absences the Chief of Police will designate a Division Commander to serve as the acting Chief of Police.

Except when designated as above, the order of command authority in the absence or unavailability of the Chief of Police is as follows:

- (a) Operations Captain
- (b) Administrative Captain

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(c) Detective Sergeant

(d) Patrol Sergeant

200.3.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (e.g. K-9, SWAT), any supervisor may temporarily direct any subordinate if an operational necessity exists.

200.3.3 ORDERS

Members shall respond to and make a good faith and reasonable effort to comply with the lawful order of superior officers and other proper authority.

200.3.4 UNLAWFUL AND CONFLICTING ORDERS

No member is required to obey any order which outwardly appears to be in direct conflict with any federal or state law, or local ordinance. If the legality of an order is in doubt the affected member shall ask the issuing supervisor to clarify the order or confer with a higher authority. Responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with an order that is in conflict with a previous order, department policy, or other directive, shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the order is intended to countermand the previous order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting order after having given the issuing supervisor the opportunity to correct the conflict are not held accountable for disobedience of the order or directive that was initially issued.

The person issuing the countermanded order shall be notified in writing by the person issuing the second command of the action taken and the reason therefore.

200.4 ACCOUNTABILITY

Supervisors and managers shall be accountable for the performance of the members under their immediate control.

Departmental Directives

204.1 PURPOSE AND SCOPE

Departmental Directives establish an interdepartmental communication that may be used by the Chief of Police to make immediate changes to policy and procedure. Departmental Directives will immediately modify or change and supersede sections of this manual to which they pertain.

204.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL

Departmental Directives will be incorporated into the manual as required upon approval of Staff. Departmental Directives will modify existing policies or create a new policy as appropriate. A Departmental Directive will be rescinded once it has been incorporated into the manual.

All existing Departmental Directives have now been incorporated in the updated Policy Manual as of the below revision date.

Departmental Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year. For example, 15-01 signifies the first Departmental Directive for the year 2015.

204.2 RESPONSIBILITIES

204.2.1 STAFF

The staff shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a Departmental Directive.

204.2.2 CHIEF OF POLICE

The Chief of Police or a Captain shall issue all Departmental Directives.

204.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

All employees are required to read and obtain any necessary clarification of all Departmental Directives. All employees are required to acknowledge in writing the receipt and review of any new Departmental Directive. Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Administration Captain.

Emergency Operations Plan

206.1 PURPOSE AND SCOPE

The City has prepared an Emergency Operations Plan Manual for use by all employees in the event of a major disaster or other emergency event. The manual provides for a strategic response by all employees and assigns specific responsibilities in the event the plan is activated (ORS 401.305).

All employees shall receive annual refresher training on the details of the City of Milwaukie Emergency Operations Plan.

206.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Operations Plan can be activated in a number of ways. For this department, the City Manager or the highest ranking official on duty may activate the Emergency Operations Plan in response to a major emergency.

206.3 LOCATION OF MANUALS

A computerized version of the Emergency Operations Plan will be made available on the Department network for access by all employees. All supervisors should familiarize themselves with the Emergency Operations Plan and what roles police personnel will play when the plan is implemented. A hard copy of the City Emergency Operations Plan is located in the EOC at the Milwaukie Public Safety Building.

206.4 BUILDING EVACUATION PLAN

In the event of a disaster or emergency which requires evacuation of the police building, all employees shall follow implemented evacuation plans and posted exit routes (OAR 437-002-0041). The posted exit routes shall include any special directions for physically impaired employees.

206.5 UPDATING OF MANUALS

The City of Milwaukie Emergency Manager or the authorized designee should review the Emergency Operations Plan Manual annually to ensure that the manual conforms to any revisions made by the National Incident Management System (NIMS), and appropriately address any needed revisions.

Training

208.1 PURPOSE AND SCOPE

It is the policy of this department to administer a training program that will provide for the professional growth and continued development of its personnel. By doing so, the Department will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.

208.2 PHILOSOPHY

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the Department will use courses certified by the Oregon Department of Public Safety Standards and Training (DPSST).

208.3 OBJECTIVES

The objectives of the Training Program are to:

- (a) Enhance the level of law enforcement service to the public
- (b) Increase the technical expertise and overall effectiveness of our personnel
- (c) Provide for continued professional development of department personnel
- (d) Enhance the safety of officers and the community

208.4 TRAINING PLAN

A training plan will be developed and maintained by the Administrative Captain. It is the responsibility of the Administrative Captain to maintain, review and update the training plan on an annual basis. The plan will address the following areas:

- Legislative changes and changes in case law
- State-mandated training
- Prison Rape Elimination Act (PREA)
- High-liability issues training
- Training on department policies and procedures

208.5 TRAINING NEEDS ASSESSMENT

The Administrative Captain will conduct an annual training-needs assessment of the Department. The needs assessment will be reviewed by staff. Upon approval by the staff, the needs assessment will form the basis for the training plan for the fiscal year.

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Training

208.7 TRAINING PROCEDURES

- (a) All employees assigned to attend training shall attend unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to:
 - 1. Court appearances.
 - 2. Pre-Approved vacation.
 - 3. Sick leave.
 - 4. Physical limitations preventing the employee's participation.
 - 5. Emergency situations.
- (b) When an employee is unable to attend mandatory training, that employee shall:
 - 1. Notify his/her supervisor as soon as possible, but no later than at least one hour prior to the start of training.
 - 2. Document his/her absence in a memorandum to his/her supervisor.
 - 3. Make arrangements through his/her supervisor and the Administrative Captain to attend an alternate date.

208.8 TRAINING COSTS

It is the responsibility of the Administrative Captain to determine when the Milwaukie Police Department may be entitled for training reimbursements when an officer has completed any portion of basic training in the last 36 months and voluntarily leaves employment and is subsequently employed by a different law enforcement agency in a position that requires the same training. If it is determined to seek reimbursement for qualifying expenses, the requests shall comply with the provisions of ORS 181A.620.

208.9 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) are contained in a web-accessed system that provides training on the Milwaukie Police Department policy manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Administrative Captain..

Personnel assigned to participate in DTBs shall only use login credentials assigned to them by the Administrative Captain.. Personnel should not share their password with others and should frequently change their password to protect the security of the system. After each session, employees should logoff the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of this agency.

Employees who are assigned to participate in the DTB program should complete each DTB at the beginning of their shift or as otherwise directed by their supervisor. Employees should not allow uncompleted DTBs to build up over time. Personnel may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the

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DTB system can be accessed from any Internet active computer, employees shall only take DTBs as part of their on-duty assignment unless directed otherwise by a supervisor.

Supervisors will be responsible for monitoring the progress of personnel under their command to ensure compliance with this policy.

Electronic Mail

212.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the department's electronic mail (email) system by employees of this department. Email is a communication tool available to department employees to enhance the efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law, such as the Oregon Public Records Law set forth in Oregon Revised Statutes 192.311 et seq. Messages transmitted over the email system must only be those that involve City business activities or contain information essential to City employees for the accomplishment of business-related tasks, and/or communication directly related to City business, administration, or practices.

212.2 EMAIL RIGHT OF PRIVACY

All email messages, including any attachments, that are transmitted over department networks are considered department records and therefore department property. The Department reserves the right to access, audit or disclose, for any lawful reason, any message including any attachment that is transmitted over its email system or that is stored on any department system. Likewise, employees are prohibited from receiving, sending or storing email messages in personal files. The Department reserves the right to access any personal folders to assure compliance with this policy.

The email system is not a confidential system and therefore is not appropriate for confidential communications. If a communication must be confidential, an alternative method to communicate the message should be used. Employees using the department email system shall have no expectation of privacy concerning communications transmitted over the system.

Employees should not use personal accounts to exchange email or other information that is related to the official business of the Department.

212.3 PROHIBITED USE OF EMAIL

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive and harassing, or any other inappropriate messages on the email system is prohibited and may result in discipline.

Email messages addressed to the entire department are only to be used for official business related items that are of particular interest to all users and must be approved by the Chief of Police or a Captain. Personal advertisements are not acceptable.

It is a violation of this policy to transmit a message under another user's name. Users are strongly encouraged to log off the network when their computer is unattended. This added security measure would minimize the misuse of an individual's email, name and/or password by others.

212.4 EMAIL RECORD MANAGEMENT

Email may, depending upon the individual content, be a public record under the Oregon Public Records Law and must be managed in accordance with the established records retention schedule and in compliance with state law.

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The Custodian of Records shall ensure that email messages are retained and recoverable as outlined in the Records Maintenance and Release Policy.

Administrative Communications

214.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members with the protocols and forms to be used for internal administrative communications. Administrative communications of this department are governed by the following policies.

214.2 PERSONNEL ORDER

Personnel Order may be issued periodically by the Chief of Police to announce and document all promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status.

214.3 CORRESPONDENCE

In order to ensure that the letterhead and name of the Department are not misused, all external correspondence shall be on Department letterhead. Personnel should use Department letterhead only for official business and with approval of their supervisor.

214.4 SURVEYS

All surveys made in the name of the Department shall be authorized by the Chief of Police or a Captain.

214.5 INFORMATIONAL MEMOS

The Chief of Police, a Division Commander or a Watch Commander may issue memorandum to department personnel from time to time for the purpose of disseminating information to the members.

An e-mail may be substituted in place of a memorandum but should be clearly identified as such.

Staffing Levels

216.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper staffing is available for all shifts. The Department intends to balance the employee's needs against the need to have flexibility and discretion in using personnel to meet operational needs. While balance is desirable, the paramount concern is the Department's need to meet operational requirements.

216.2 MINIMUM STAFFING LEVELS

Minimum staffing levels should result in the scheduling of at least two regular officers and one Watch Commander on duty at all times.

Retiree Concealed Firearms

219.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of Milwaukie Police Department identification cards under the Law Enforcement Officers' Safety Act (LEOSA) (18 USC § 926C).

219.2 POLICY

It is the policy of the Milwaukie Police Department to provide identification cards to qualified former or retired officers as provided in this policy.

219.3 LEOSA

The Chief of Police may issue an identification card for LEOSA purposes to any qualified former officer of this department who (18 USC § 926C(c)):

- (a) Separated from service in good standing from this department as an officer.
- (b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

219.3.1 IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former officer and identify him/her as having been employed as an officer.

If the Milwaukie Police Department qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active duty standards for qualification to carry a firearm.

219.3.2 AUTHORIZATION

Any qualified former law enforcement officer, including a former officer of this department, may carry a concealed firearm under 18 USC § 926C when:

- (a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:
 - 1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

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2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
 - (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
 - (c) Not prohibited by federal law from receiving a firearm.
 - (d) Not in a location prohibited by Oregon law or by a private person or entity on his/her property if such prohibition is permitted by Oregon law.

219.4 FORMER OFFICER RESPONSIBILITIES

A former officer with a card issued under this policy shall immediately notify the Patrol Sergeant of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the Reporting of Employee Convictions Policy.

219.4.1 RESPONSIBILITIES UNDER LEOSA

In order to obtain or retain a LEOSA identification card, the former officer shall:

- (a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
- (d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

219.5 DENIAL, SUSPENSION OR REVOCATION

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the Department. In the event that an identification card is denied, suspended or revoked, the former officer may request a review by the Chief of Police. The decision of the Chief of Police is final.

219.6 FIREARM QUALIFICATIONS

The Rangemaster may provide former officers from this department an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Rangemaster will maintain a record of the qualifications and weapons used.

Chapter 3 - General Operations

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner, in accordance with state law.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows themselves to be searched, escorted, handcuffed, or restrained.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties. All use of force must be justified using applicable state law.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE AND REPORT

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force (ORS 181A.681).

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Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations to a supervisor as soon as feasible (ORS 181A.681).

300.2.2 NON-DEADLY FORCE APPLICATIONS

Any application of force that is not reasonably anticipated and intended under the circumstances to create a substantial likelihood of death or serious physical injury shall be considered non-deadly force. Each officer is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of officers and the public. Non-deadly force applications may include but are not limited to the appropriate physical restraint, and the acceptable use of handcuffs and leg restraints, control devices and TASERS described in Policy Manual §§ 306, 308 and 309 respectively. The reasonable use of force should be applied in a manner involving the least amount of force practicable to resolve the threat or contain the situation. The intentional, reckless or unlawful use of physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of another person is not permitted, except in circumstances in which deadly physical force is justified under law. (ORS 161.209 and ORS 161.215).

300.2.3 DE-ESCALATION

De-escalation is defined as a process, action, or tactic, including verbal and non-verbal communication, designed to prevent, reduce or manage behaviors associated with conflict. Those behaviors can include verbal or physical agitation, aggression, or actual violence. The goal of de-escalation in police calls or interactions with the public is to use those factors within our reasonable control to accomplish voluntary compliance or a safe resolution, minimizing the frequency and level of physical force as much as possible.

Time and distance are examples of factors which we can often attempt to take advantage of to achieve the safest possible outcome. Intentionally trying not to get too close, too quickly can preserve de-escalation options. Situations where there is immediate risk to innocent people can require rapid intervention.

This policy recognizes all life is sacred and is consistent with our ultimate goal to protect and preserve life. Some of the factors which must be considered when evaluating de-escalation are:

- The seriousness of the situation
- The safety of innocent citizens or victims exposed to the situation
- The safety of the officers asked to respond to or address the situation
- The safety of the subject of the call

When there is immediate risk to innocent citizens, officers may be required to take decisive action more quickly. The decision of what actions to take should always take into consideration de-escalation options and properly balance the risk to all involved. This policy also recognizes the subject persons of a police call or interaction can eliminate some of our options and we do

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not maintain sole control of these factors in rapidly evolving and complicated law enforcement interactions.

To the objectively reasonable extent based on the totality of the circumstances, all law enforcement officers must attempt to determine whether an individual's behavior is the result of one or more of the following factors:

- Medical conditions
- Mental impairment
- Developmental disability
- Physical limitation
- Language barrier
- Under the influence of drugs, alcohol, or medications
- Behavioral crisis

Officers should consider the use of the Behavioral Health Unit (B.H.U.) if the circumstances allow it. After considering whether the individual's behavior is based on one or more of the factors listed above, the law enforcement officer must then determine whether physical force, and what level of physical force, is necessary and appropriate to resolve the situation in a safe manner. It is the policy of the department to strive to put all sworn officers through the 40 hours Crisis Intervention Training (C.I.T.) and apply the principals of that training toward de-escalation.

300.2.4 STATE REPORTING REQUIREMENTS

A report of another member using excessive force must be made to a supervisor no later than 72 hours after the misconduct was witnessed (ORS 181A.681).

300.2.5 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

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Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.

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- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.3.2 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.3 NECK RESTRAINTS

The intentional, reckless or unlawful use of physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of another person is not permitted, except in circumstances in which deadly physical force is justified under law. (ORS 161.209 and ORS 161.215).

Choke hold: This is defined as intentionally restricting the airway by applying pressure to the front of the neck or throat.

The use of a chokehold is prohibited as a defense tactics technique because it can cause unintentional injury or death, unless such use is justified by law.

Carotid Restraints: is defined as intentionally restricting blood flow in the carotid arteries on either/both sides of the neck, without restricting breathing. Carotid restraints are prohibited as a defense tactics technique because it can cause unintentional injury or death unless such use is justified by law.

All officers must understand the potentially fragile nature of the throat, neck and cervical spine and treat those areas accordingly. Intentionally kneeling on someone's throat, neck or cervical spine to control the person is prohibited because of the risk of unintentional injury or death.

Nothing in this policy supersedes state law or department policy on the use of deadly force.

300.3.4 USE OF FORCE TO SEIZE EVIDENCE

Officers are prohibited from using a Carotid restraint or a chokehold to prevent someone from swallowing evidence or contraband due to the risk of unintentional injury or death.

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300.3.5 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers shall use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion) (ORS 161.233; ORS 161.242).

300.3.6 VERBAL WARNING PRIOR TO USE OF FORCE

Prior to using physical force, if reasonable to do so, officers shall give a verbal warning that physical force may be used and provide a reasonable opportunity to comply (ORS 161.233; ORS 161.242).

300.3.7 RESPIRATORY RESTRAINTS

The use of a respiratory restraint, also known as a chokehold, is limited to circumstances where deadly force is authorized and if applied, is subject to the same guidelines and requirements as a carotid control hold.

300.4 DEADLY FORCE APPLICATIONS

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify the officer as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk (ORS 161.242):

- (a) An officer may use deadly force to protect themselves or others from what the officer reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.
- (c) An officer may use deadly force to make a lawful arrest when the officer has probable cause to believe that the person has committed a violent felony as defined in ORS 419A.004.
- (d) An officer may use deadly force to prevent a person from escaping custody when the officer has probable cause to believe that the person has committed a violent felony as defined in ORS 419A.004.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

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300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle absent exceptional circumstances.

300.4.2 WARNING SHOTS

Generally, warning shots or shots fired for the purpose of summoning aid are prohibited

300.5 REPORTING THE USE OF FORCE

Any use of force as defined by policy shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why the officer believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department also requires the officer applying the force to complete the City of Milwaukie Police Department Use of Force Report in Mark 43. The Use of Force Report and Supervisor Review will be forwarded to the Chief of Police through channels for review.

300.5.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the EMDT or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

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300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITY

When a supervisor has reason to know there has been a reported application of force, the supervisor is expected to:

- (a) Respond to the scene immediately or justify why they couldn't.
- (b) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (c) Ensure that any injured parties are examined and treated
- (d) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply: The content of the interview should not be summarized or included in any related criminal charges.

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1. The content of the interview should not be summarized or included in any related criminal charges. Such recording of the person injured should be stored as directed by the Chief of Police or designee.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (e) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (f) Identify any witnesses not already included in related reports.
- (g) Review and approve all related reports.
- (h) Determine if there is any indication that the subject may pursue civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (i) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.
- (j) Prepare and submit an After Action Memo to the Chief through channels.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

An After Action Memo is not required when the use of force is limited to the mere display of a weapon.

300.7.1 PATROL SERGEANT RESPONSIBILITY

The Patrol Sergeant shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.9 COMMAND STAFF USE OF FORCE REVIEW BOARD

The City has a use of force review process.

The appropriate Captain will review all related police reports along with the administrative Use of Force After Action.

- Captain(s) will determine if they agree with the supervisor's conclusions and recommendations.
- Captain(s) will determine if any additional follow-up investigation is necessary.
- Captain(s) will also assess if policy and best practices were followed.

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Captain(s) will review reports and their findings with the Chief of Police

300.10 ANNUAL REVIEW

In the first quarter of each calendar year or more often, the Operations Captain will ensure that an annual review of all use of Force Reports for the previous calendar year is conducted. The analysis will focus on the effectiveness and trends in the use of force that might suggest training or equipment needs, or policy modification. Specific detail including items such as officer names, case numbers, location of occurrence are not needed for this purpose and therefore will not be part of this process. These reports will be made available to the Chief of Police and City Manager.

Deadly Force Review

302.1 PURPOSE AND SCOPE

This policy establishes a process for the Milwaukie Police Department to review the use of deadly force by its employees to evaluate policies and practices for improve training and operational practices.

This review process will be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

302.2 REVIEW BOARD

The Milwaukie Police Department is charged with the important responsibility of objectively evaluating the use of deadly force. It is the policy of this department to convene a Use of Deadly Force Review Board when the use of deadly force by an employee results in injury or death to a person.

The Use of Deadly Force Review Board will also investigate and review the circumstances surrounding every accidental or intentional discharge of a firearm, whether the employee is on or off duty, excluding range training or recreational use. This policy does not apply to discharge of a firearm for euthanizing an animal.

The Chief of Police may convene the Use of Deadly Force Review Board to investigate the circumstances surrounding any use of force incident.

302.2.1 COMPOSITION OF THE BOARD

The Use of Deadly Force Review Board normally would be comprised of the following persons:

- MPD Captain
- MPD Sergeant
- At least one sworn Command Staff member from an outside law enforcement agency within Clackamas County.
- The City Human Resources Director or city manager designee
- A representative of the Clackamas County District Attorney's Office, to be appointed by the Chief Deputy District Attorney, so long as there is no conflict for their office. The CCDA's representative would be an active or retired Senior Deputy District Attorney.

The Chief of Police will designate one of the Command Staff members of the Board to serve as chairperson.

The chairperson will convene the Use of Deadly Force Review Board as necessary. It will be the responsibility of the division or unit commander of the involved employee(s) to notify the appropriate division commander of any incidents requiring board review. The division or unit commander will also ensure that all relevant reports, documents, and materials are available for consideration and review by the Board.

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302.2.2 RESPONSIBILITIES OF THE BOARD

The Use of Deadly Force Review Board is empowered to conduct an administrative investigation into the circumstances of an incident to determine if there was a violation or rule or policy. This review is separate and apart from any internal investigation for the purposes of discipline as provided by other policy.

The Board will not be convened until after announcement by the District Attorney of any criminal charges resulting from the incident in question, subject to the circumstances and timing of a possible internal investigation. In the event criminal charges are pending, the Chief of Police, in consultation with the City Manager and Human Resources Director, will determine the appropriate timing and process to engage the review board in order to avoid conflicts with the constitutional rights of the employee or with other legal obligations.

When the board is convened, the board members may rely on the evidence and findings of any internal investigation conducted for the purposes of internal investigation or request further investigation, call persons to present information, and may request that the involved employees appear before the board. The involved employee will be notified of the meeting of the board and may be represented by legal counsel and/or other representation through all phases of the review process.

In the event the board seeks to interview the employee involved in the use of deadly force, the board will adhere to the interview requirements of the discipline policy or respective collective bargaining agreement. Prior to any interview of the employee involved, the Board will consult with the Chief of Police to assure legal compliance with constitutional requirements and other legal obligations or procedural matters

The review will be based upon those facts which were reasonably believed by the officer at the time of the incident, applying legal requirements, department policy and procedures, and approved training, to those facts. Facts later discovered but unknown to the officer at the time, can neither justify nor call into question an officer's decision regarding use of force.

The board does not have the authority to recommend specific discipline. The board will make a finding and such finding will be limited to one of the following:

- (a) The employee's actions were within department policy and procedures.
- (a) The employee's actions were in violation of department policy and procedures.

A finding will represent the consensus of the board. After the board has concluded, the board chairperson will submit written findings of the board to the Chief of Police.

Once the board has reached its specific finding, at the direction of the Chief, or designee, the Administrative Captain may convene a separate training committee to address training needs and to make recommendations for this department without specific reference to the facts of the incident considered by the board.

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302.3 ANNUAL REVIEW

An annual review will be conducted on all use of deadly force incidents in accordance with the Department Use of Force policy.

Handcuffing and Restraints

306.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

306.2 POLICY

The Milwaukie Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

306.3 USE OF RESTRAINTS

Only members who have successfully completed Milwaukie Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

306.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain a person who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to ensure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

306.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others.

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306.3.3 RESTRAINT OF JUVENILES

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

306.3.4 NOTIFICATIONS

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during, transportation to the jail.

306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations, handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the person or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

306.5 APPLICATION OF SPIT HOODS

Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, because they have previously attempted to, or demonstrated a desire to, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport. Use of spit hoods should be for limited occasions based on the individual circumstances of the situation. Spit hoods must always be see through, so an officer can monitor a person's status and designed to insure unrestricted breathing and communication, for the safety of the person in custody.

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally.

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Officers should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Officers should avoid commingling those wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head, and clothing, prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

306.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

306.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest, or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

306.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints, the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

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- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on their stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by emergency medical services, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

306.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

Control Devices and Techniques

308.1 PURPOSE AND SCOPE

To reduce and minimize altercation-related injuries to officers and suspects, the Department authorizes the use of selected control devices. Certain control devices are provided in order to control violent or potentially violent suspects. It is anticipated that the use of these devices will generally result in fewer altercation-related injuries to officers and suspects. The below procedures are for the use and maintenance of control devices (e.g., dept approved baton, conducted energy device, oleoresin capsicum (OC) spray or similar inhalant as permitted by law.) Only those control devices that have been approved by the Chief of Police or designee are authorized to be carried by members of this department. See Policy 309 for Conducted Energy Devices.

308.1.1 WHEN DEVICES MAY BE USED

When a decision has been made to restrain or arrest a violent or threatening suspect, an approved control device may only be used when its use appears reasonable under the circumstances.

308.1.2 REVIEW, INSPECTION AND APPROVAL

Every control device will be periodically inspected by the department Armorer or Rangemaster, or the designated instructor for a particular control device.

308.1.3 TRAINING FOR CONTROL DEVICES

Only officers trained and having shown adequate proficiency in the use of any control device and this agency's Use of Force policy are authorized to carry the device. Proficiency training must be monitored and documented by a certified weapons or tactics instructor.

- (a) Training for all control devices should occur every two years at a minimum.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers failing to demonstrate proficiency with the weapon or knowledge of this agency's Use of Force policy will be provided remedial training. If, after two additional attempts, an officer still cannot demonstrate proficiency with a weapon or knowledge of this agency's Use of Force policy, the officer may be subject to discipline.

308.2 POLICY BATON POLICY

The baton/ASP is authorized for use when the officer is trained and certified in its use, and based upon the circumstances perceived by the officer, lesser force would not reasonably appear to result in the safe control of the suspect.

308.3 USE OF OLEORESIN CAPSICUM OR SIMILAR SPRAY OR INHALANT

The use of Oleoresin Capsicum ("OC spray") or similar spray inhalant is specifically limited by law (ORS181A708).

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The use of OC spray or similar spray for crowd control, crowd dispersal or against barricaded suspects is unlawful unless permitted by law inclusive of a declaration of riot by the appropriate chain of command and notice of use requirements are met under ORS 181A708. When practical, fire personnel should be summoned and staged at the scene as a contingency in case assistance with fire control, medical aid or gas evacuation becomes necessary. Only officers or supervisors trained in the use of tear gas weapons should discharge such devices at the scene.

308.4 CHEMICAL AGENTS SPRAY GUIDELINES

Only authorized personnel may possess and employ department issued oleoresin capsicum spray. Chemical agents are weapons used to minimize the potential for injury to officers, offenders, or other persons. They should be used only in situations where such force reasonably appears justified and necessary.

308.4.1 REQUIRED INSTRUCTION FOR USE

All personnel authorized to carry oleoresin capsicum spray, will complete the required course of instruction prior to possessing and using the oleoresin capsicum spray.

Patrol Sergeant

308.4.2 CARRYING OF OLEORESIN CAPSICUM SPRAY

Uniformed field personnel carrying the oleoresin capsicum spray will carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry the oleoresin capsicum spray as authorized, consistent with the needs of their assignment or at the direction of their supervisor.

Canisters involved in any type of malfunction or damage will be turned in to the designated sergeant for exchange. Damage to City Property forms will also be forwarded to the appropriate supervisor and will explain the cause of damage.

308.4.3 TREATMENT FOR OC SPRAY EXPOSURE

Persons who have been affected by the use of chemical agents should be promptly provided with the proper solution to cleanse the affected areas if practicable. Those persons who complain of further severe effects shall be afforded a medical examination by competent medical personnel.

308.4.4 REPORT OF USE

All uses of chemical agents shall be documented in the related arrest/crime report.

308.5 KINETIC ENERGY PROJECTILES

This department is committed to reducing the potential for violent confrontations when suspects are encountered. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury.

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Kinetic energy projectiles are approved by the Department and are fired from specially marked firearms. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

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308.5.1 DEPLOYMENT

Approved munitions are justified and may be used to compel an individual to cease an individual's actions when such munitions present a reasonable option for resolving the situation at hand.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer(s) determine that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons, and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Unless it would otherwise endanger officer safety or is impractical due to circumstances, a verbal announcement of the intended use of the Kinetic Energy Projectiles shall precede the application of a Kinetic Energy Projectile in order to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply
- (b) Provide others and individuals with warning that a kinetic energy device may be deployed

308.5.2 EXAMPLES OF CIRCUMSTANCES APPROPRIATE FOR DEPLOYMENT

Examples include, but are not limited to, the following types of situations where the subject:

- (a) Is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions
- (b) Has made credible threats to harm himself or others
- (c) Is engaged in riotous behavior or is throwing rocks, bottles, or other dangerous projectiles at people and/or officers and a riot has been declared. (ORS181A708)

308.5.3 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider the following factors:

- (a) Severity of the crime or incident
- (b) Subject's capability to pose an imminent threat to the safety of officers or others
- (c) If the subject is actively resisting arrest or attempting to evade arrest by flight
- (d) The credibility of the subject's threat as evaluated by the officers present, and physical capacity/capability
- (e) The proximity of weapons available to the subject
- (f) The officer's versus the subject's physical factors (e.g., age, size relative strength, skill level, injury/exhaustion, the number of officer(s) versus subject(s))

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- (g) The availability of other force options and their possible effectiveness
- (h) Distance and angle to target
- (i) Type of munitions employed
- (j) Type and thickness of subject's clothing
- (k) The subject's actions dictate the need for an immediate response and the use of control devices appears appropriate

308.5.4 DEPLOYMENT DISTANCES

Officers will adhere to deployment distances as learned from training with consideration of the manufacturer's recommendations regarding deployment when using control devices. Officers are not solely restricted to use according to these manufacturer recommendations. Each tactical situation must be evaluated on the totality of circumstances at the time of deployment and based on training experience.

308.5.5 DISCHARGE PLACEMENT

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted when deadly force is not reasonably justified.

Officers should generally follow training experience with consideration of the manufacturer's recommendations regarding minimum deployment distances and target areas, however, any target area or distance may be considered when it reasonably appears necessary to accomplish immediate incapacitation in order to prevent serious injury or death and other reasonable methods have failed or reasonably appear ineffective.

308.5.6 APPROVED MUNITIONS

Only department approved kinetic energy munitions shall be carried and deployed.

308.5.7 SAFE HANDLING OF WEAPONS

The intent of this policy is to promote proper safety while handling kinetic energy devices and projectiles on and off duty. Employees shall maintain the highest level of safety when handling these devices and shall consider the following:

- (a) Officers shall not unnecessarily display or handle any kinetic energy device such as for entertainment.
- (b) Officers shall be governed by all rules and regulations pertaining to the use of the police range or training facility, and shall obey all orders issued by the Range master or weapons instructor.
- (c) Any member who discharges a kinetic energy device accidentally or intentionally, on or off-duty, except during training, shall make a verbal report to the on-duty supervisor as soon as circumstances permit and shall file a written report with their Division Commander prior to the end of shift if on-duty. If off-duty, as directed by the supervisor.

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- (d) Officers shall not place or store any kinetic energy device or projectiles in department premises except when the place of storage is locked. Officers will lock up the kinetic energy devices at the end of their shift and during their days off.

308.5.8 TRAINING REQUIRED FOR USE

Personnel who have successfully completed an approved departmental training course shall be authorized to use kinetic energy projectiles. Officers deploying kinetic energy projectiles will complete an annual recertification course demonstrating proficiency with the weapon and knowledge of this agency's Use of Force policy.

308.6 TEAR GAS GUIDELINES

Tear gas may be used for crowd control, crowd dispersal, or against barricaded suspects based on the circumstances.

Only the Patrol Sergeant, Incident Commander, or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.

308.6.1 PATROL SERGEANT'S RESPONSIBILITIES

The Patrol Sergeant shall monitor the use of control devices in the same manner as all other use of force incidents.

- (a) The Patrol Sergeant may authorize the use of a control device by selected personnel or members of specialized units provided the person(s) authorized has/have the required training. The request for a control device should be made through the Patrol Sergeant.
- (b) The Patrol Sergeant shall review each use of control devices by any personnel within their command.
- (c) The Patrol Sergeant shall ensure Roll Call Briefing training on the use of control devices is provided as needed.

308.6.2 RANGEMASTER RESPONSIBILITIES

The Rangemaster shall control the inventory and shall issue all control devices. All damaged, inoperative and/or expended control devices shall be returned to the Rangemaster for disposition, repair or replacement.

308.6.3 MAINTENANCE RESPONSIBILITY

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

308.7 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device and/or technique listed within this section will be documented pursuant to Policy Manual § 300.4 and 300.5

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As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public (ORS 181A.708).

308.8 CROWD CONTROL GUIDELINES

For the purpose of this section, "crowd control" means an operation in which crowds are managed to prevent the outbreak of violence or physical harm to persons, or in which an assembly, protest, or demonstration is dispersed (ORS 181A.708).

Handheld chemical incapacitants and kinetic impact projectiles as defined by ORS 181A.708 shall not be used for crowd control. Tear gas may be used for crowd control when the Patrol Sergeant, Incident Commander, or [Crisis Response Unit] (SWAT) Commander reasonably believes that the use is necessary to prevent death or serious bodily injury or to bring an objectively dangerous and unlawful situation under control (ORS 181A.708).

Prior to deploying tear gas for crowd control purposes, the Patrol Sergeant, Incident Commander, or SWAT Commander shall direct that the intent to use tear gas be announced twice via reasonable and available means, the second announcement occurring after a reasonable amount of time has elapsed to allow for crowd dispersal (ORS 181A.708).

308.8.1 ADDITIONAL CROWD CONTROL CONSIDERATIONS

Officers may not use electronically amplified noise-producing equipment for crowd control except to make announcements, facilitate movement of emergency vehicles, or as otherwise allowed by law. When possible, announcements shall be made both audibly and visually (ORS 181A.708).

After deploying chemical incapacitants, kinetic impact projectiles, or sound devices in a crowd control operation, and when it is possible to do so safely, officers shall (ORS 181A.708):

- (a) Attempt to take injured individuals to safety or allow them to seek medical help.
- (b) Allow emergency medical personnel to reach injured individuals.
- (c) Take reasonable action to accommodate individuals with disabilities when issuing or enforcing orders to disperse.
- (d) Coordinate the removal of visible debris caused by the use of tear gas and kinetic impact projectiles.
- (e) Make reasonable efforts to notify emergency departments in the vicinity of the type of chemical incapacitants and/or kinetic impact projectiles used.

Conducted Energy Device

309.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of a conducted energy device, referenced as "TASER" device." The City is not limited to TASER® brand products.

309.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

309.3 ISSUANCE AND CARRYING TASER DEVICES

Only members who have successfully completed department-approved training may be issued and carry the Taser.

Tasers are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers

Every sworn member of the department must be trained in the proper use of TASER device, and will be issued a TASER device. All uniformed patrol officers and sergeants must carry a TASER device as part of their standard patrol uniform. Sworn staff in specialty units outside of patrol will carry a TASER device when it is appropriate. TASER devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers will only use the TASER device and cartridges that have been issued by the Department. Uniformed officers who have been issued the TASER device will wear the device in an approved holster on their person. Non-uniformed officers may secure the TASER device in the driver's compartment of their vehicle.

Officers carrying the Taser should perform a spark test on the unit prior to every shift.

When carried while in uniform, officers shall carry the Tasers in a weak-side holster on the side opposite the duty weapon.

- (a) All Tasers shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the Tasers.
- (c) Officers shall be responsible for ensuring that their issued Taser is properly maintained and in good working order.
- (d) Officers should not hold both a firearm and the Taser at the same time.

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309.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the Taser should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances.

The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the Taser may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the Taser in the related use of force report.

309.5 USE OF THE TASER DEVICE

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used under circumstances which constitute a reasonable use of force and when its operator can safely approach the subject within the operational range of the device. Although the TASER device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

309.5.1 APPLICATION OF THE TASER DEVICE

The TASER may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the Taser to apprehend an individual.

309.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the Taser on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.

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- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).
- (g) Assessment of use of force factors consistent with policy 300 including physical and mental state, if known, that could affect appropriate use.

Because the application of the Taser in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The Taser shall not be used to psychologically torment, elicit statements or to punish any individual.

309.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the Taser probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

309.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Officers should apply the Taser for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the Taser against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the Taser appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the Taser, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.
- (d) Reasonable belief that multiple applications of the Taser may still be effective.

Officers should generally not intentionally apply more than one Taser at a time against a single subject.

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309.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all Taser discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

309.5.6 DANGEROUS ANIMALS

The Taser may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

309.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department Tasers while off-duty.

Officers shall ensure that Tasers are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

309.6 DOCUMENTATION

Officers shall document all Taser discharges in the related arrest/crime report and the Taser report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

309.6.1 TASER DEVICE FORM

Items that shall be included in the Taser report form are:

- (a) The type and brand of Taser and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The number of Taser activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the Taser was used.
- (f) The type of mode used (probe or drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

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- (m) The Administrative Captain should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Administrative Captain should also conduct audits of data downloads and reconcile TASER device report forms with recorded activations. TASER device information and statistics, with identifying information removed, should periodically be made available to the public.

309.6.2 REPORTS

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing Tasers
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

309.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove Taser probes from a person's body. Used Taser probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by Taser probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The Taser probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and will be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the Taser.

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309.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the Taser may be used. A supervisor should respond to all incidents where the Taser was activated.

A supervisor should review each incident where a person has been exposed to an activation of the Taser. The device's onboard memory should be downloaded through the data port by a supervisor or Rangemaster and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

309.9 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the TASER device as a part of their assignment for a period of six months or more will be recertified by a department-approved TASER device instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Administrative Captain. All training and proficiency for TASER devices will be documented in the officer's training file.

Command staff, supervisors and investigators should receive TASER device training as appropriate for the investigations they conduct and review.

Officers who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Administrative Captain is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Using the Taser device on department personnel during training could result in injury to personnel and should not be mandatory for certification.

The Administrative Captain is responsible for ensuring that all members who carry Tasers have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of Tasers during training could result in injury to personnel and should not be mandatory for certification.

The Administrative Captain should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of accidentally drawing and firing a firearm.

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- (d) Target area considerations, to include techniques or options to reduce the accidental application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the Taser and transitioning to other force options. De-escalation techniques.
- (f) Restraint techniques that do not impair respiration following the application of the Taser.

309.10 TASER INVENTORY

The Operations Operations Captain will keep an inventory of all department Tasers and will conduct a yearly audit.

Officer-Involved Shootings and Deaths

310.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured as the result of an officer-involved shooting. The intent of this policy is to ensure that such incidents be investigated in a fair and impartial manner.

310.2 INVESTIGATION RESPONSIBILITY

This department conforms to the Milwaukie Police Department Officer-involved Shooting Protocol and any other regional OIS protocol as established by law for investigating officer involved shootings.

310.3 TYPES OF INVESTIGATIONS

Officer-involved shootings involve several separate investigations. The investigations may include:

- (a) A criminal investigation of the incident by the agency having jurisdiction where the incident occurred. This department may relinquish its criminal investigation to an outside agency or interagency team with the approval of the Chief of Police or a Captain.
- (b) A criminal investigation of the involved officers conducted by an outside agency or interagency team.
- (c) A civil investigation to determine potential liability conducted by the involved officer's agency.
- (d) An administrative investigation conducted by the involved officer's agency, to determine if there were any violations of department policy.

310.4 JURISDICTION

Jurisdiction is determined by the location of the shooting and the agency employing the involved officers. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings:

310.4.1 MILWAUKIE POLICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION

The Clackamas County Major Crimes Team is responsible for the criminal investigation of the any person involved in potential criminal action in relation to an officer involved using the officer involved shooting protocol in conjunction with the District Attorney's Office.

The criminal investigation of the officer-involved shooting will be conducted by an inter-agency team as designated in the Clackamas County inter agency major crimes team officer involved shooting protocol in conjunction with the District Attorney's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

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310.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

The Milwaukie Police Department is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the officer-involved shooting will be conducted by this agency or an inter-agency team as designated in the Clackamas County inter agency major crimes team officer involved shooting protocol in conjunction with the District Attorney's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

310.4.3 MILWAUKIE POLICE DEPARTMENT OFFICER IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The

The Milwaukie Police Department will conduct timely civil and/or administrative investigations.
will conduct timely civil and/or administrative investigations.

310.4.4 INVESTIGATION RESPONSIBILITY MATRIX

The following table identifies the possible scenarios and responsibilities for the investigation of officer-involved shootings:

| | Criminal Investigation of Suspect(s) | Criminal Investigation of Officer(s) | Civil Investigation | Administrative Investigation |
|---|---|---|--|--|
| Milwaukie Police Department Officer in this Jurisdiction | Milwaukie Police Department | Clackamas County Major Crimes Team and District Attorney's Office | Milwaukie Police Department | Milwaukie Police Department Operations Captain |
| Allied Agency's Officer in this Jurisdiction | Milwaukie Police Department | Clackamas County Major Crimes Team and District Attorney's Office | Involved Officer's Department | Involved Officer's Department |
| An officer From this department in Another Jurisdiction | Agency where incident occurred | Clackamas County Major Crimes Team dictated by county where incident occurred | Milwaukie Police Department Civil Liability Team | Milwaukie Police Department Operations Captain |

310.5 THE INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting.

310.5.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

Upon arrival at the scene of an officer-involved shooting, the first uninvolved supervisor should:

- (a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- (b) Attempt to obtain a brief overview of the situation from any non-shooter officer(s).

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1. In the event that there are no non-shooter officers, the supervisor should attempt to obtain a brief voluntary overview from one shooter officer.
- (c) If necessary, the supervisor may administratively order any officer from this department to immediately provide **public safety information necessary to secure the scene and pursue suspects.**
 1. **Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information**
- (d) **Absent a voluntary statement from any officer(s), the initial on scene supervisor should not attempt to order any officer to provide other than public safety information. The supervisor should be aware statements ordered cannot be used against an accused in criminal proceedings and should avoid compelling any statements that aren't absolutely necessary to stabilize the scene. After the scene has been stabilized, any consideration of ordering a statement from an officer should be deferred to the Major Crimes Team Coordinator, in order to preserve all options in the event criminal prosecution is necessary or appropriate.**
- (e) **Provide all available information to the Patrol Sergeant and Patrol Sergeant and LOCOM. If feasible, sensitive information should be communicated over secure networks.**
- (f) **Take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel.**
- (g) **As soon as practical, shooter officers should respond or be transported (separately, if feasible) to the station for further direction.**
 1. **Each involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a supervisor.**
 2. **When an officer's weapon is taken or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon or transported to the station by other officers.**

310.5.2 PATROL SERGEANT DUTIES

Upon learning of an officer-involved shooting, the Patrol Sergeant shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or a Division Commander Or Major Crimes Team (MCT)

310.5.3 NOTIFICATIONS

The following person(s) shall be notified as soon as practical:

- Chief of Police
- Criminal Investigations Division Commander
- Criminal Investigations Divisions Sergeant

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- District Attorney
- Interagency Major Crimes Team
- Operations Captain supervisor
- Psychological/Peer support personnel
- Medical Examiner (if necessary)
- Officer representative (if requested)
- MPEA President, or in absence an executive board member.

All outside inquiries about the incident shall be directed to the Patrol Sergeant.

310.5.4 MEDIA RELATIONS

A single press release shall be prepared with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation. This release will be available to the Patrol Sergeant, Criminal Investigations Captain and Public Information Officer in the event of inquiries from the media.

It will be the policy of this department to not release the identities of involved officers within 24 hours of the start of the investigation and in consultation with the District Attorney's office. Moreover, no involved officer will make any comments to the press unless authorized by the Chief of Police or a Captain.

Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions will refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation. After the Major Crimes Team has assumed control of an investigation, any subsequent press releases will be reviewed by or put out by the Clackamas County District Attorney's Office.

310.5.5 INVOLVED OFFICERS

Once the involved officer(s) have arrived at the station, the Patrol Sergeant should admonish each officer that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer (ORS 181.789):

- (a) Any request for department or legal representation will be accommodated. However, no involved officer shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communication.
- (c) Discussions with department representatives (e.g., employee association) will be privileged only as to the discussion of non-criminal information.
- (d) At least two sessions with a psychotherapist shall be provided by the Department to each involved officer, and to any other witness officer., As required by law, an involved officer must attend at least one session..

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1. (a) An interview or session with a licensed psychotherapist may take place prior to the involved officer providing a formal interview or report, but the involved officers will not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
- 2.
- (e) Communications with peer counselors are confidential and may not be disclosed by any person participating in the peer support counseling session (Oregon Revised Statutes 181.860). To be considered confidential communications under the statute, the peer counselor must:
 1. Have been designated by a law enforcement agency or employee assistance program to act as a peer counselor, and
 2. Have received training in counseling and in providing emotional and moral support to public safety personnel or emergency services personnel who have been involved in emotionally traumatic incidents by reason of their employment.

Care should be taken to preserve the integrity of any physical evidence present on the officer, equipment and clothing (e.g., blood, fingerprints, etc.) until investigators or lab personnel can properly retrieve it.

Detectives shall make reasonable accommodations to the officer's physical and emotional needs.

Each involved officer shall be given reasonable paid administrative leave following an officer-involved shooting. Officers who use deadly physical force that results in the death of a person shall not be returned to regular duty until at least 72 hours immediately following the incident and having seen a psychotherapist as ordered by the city. It shall be the responsibility of the Patrol Sergeant to make schedule adjustments to accommodate such leave.

310.6 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION

310.6.1 DETECTIVE PERSONNEL

Once notified of an officer-involved shooting, it will be the responsibility of the Detective Division supervisor to liaison with the Clackamas County inter agency major crimes team to ensure compliance with policy 310, officer involved shooting protocol. Detectives may be assigned to separately handle the investigation of any related crimes not being investigated under the direction of the major crimes team and District Attorney's Office. (Note: see 310.4.1: major crimes does the criminal investigation)

All related departmental reports except administrative and/or privileged reports will be forwarded to the designated detective supervisor for approval. Privileged reports shall will be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the appropriate Captain.

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310.6.2 CRIMINAL INVESTIGATION

Consistent with Section 31.0.4.1, it will be the policy of this department to utilize the major crimes team and the District Attorney's Office to provide guidance in a criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

Once public safety issues have been addressed, criminal investigators will be given the next opportunity to interview involved officers in order to provide them with an opportunity to give a voluntary statement. The following will be considered for the involved officer:

- (a) Supervisors and personnel assigned to conduct and internal investigation should not participate directly in any voluntary interview of officers. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry.
- (b) Any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney, prior to speaking with criminal investigators. However, in order to maintain the integrity of each individual officer's statement, involved officers will not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (c) Any voluntary statement provided by the officer(s) will be made available for inclusion in the administrative or other related investigations.
- (d) Absent consent from the involved officer or as required by law, no administratively compelled statement(s) will be provided to any criminal investigators. Prior to Department Command Staff or Sergeant requiring a compelled statement of an officer being investigated for an officer involved shooting, the Chief of Police will be consulted to review any "Garrity" matters

310.6.3 REPORTS BY INVOLVED OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved officer may write the report, it is generally recommended that such reports be completed by assigned investigators who should interview involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved shooting.

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310.6.4 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or other major incident may be lost or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identify all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to their departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel.
 - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Available personnel should be assigned to promptly contact the suspect's family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to contact with officers.

310.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting, this department will conduct an internal administrative investigation to determine conformance with department policy. This investigation will be conducted under the supervision of the Administrative Captain and will be considered a confidential peace officer personnel file.

- (a) Any officer involved in a shooting may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency unless otherwise ordered by a court order or other legal enforcement action.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved

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officer will be provided with a copy of his or her prior statement before proceeding with any subsequent interview(s).

- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, or if there are additional issues that were not covered in the criminal investigation, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
 3. Administrative interview(s) should be recorded by the investigator (the officer may also record the interview).
 4. The officer shall be informed of all constitutional *Miranda* rights and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions. The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The *Garrity* admonishment).
 5. The administrative interview shall be considered part of the officer's confidential personnel file.
 6. The Administrative Captain shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
 7. The completed administrative investigation shall be submitted to the Use of Deadly Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of deadly force policy.
 8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

310.8 AUDIO AND VIDEO RECORDINGS

Any officer involved in an incident may be permitted to review available Mobile Audio Video (MAV) or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV or other video or audio recordings with approval of assigned investigators or a supervisor.

Any MAV and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or City Attorney's Office as appropriate.

Firearms

312.1 PURPOSE AND SCOPE

This policy establishes procedures for the acquisition, inventory, use, and documentation of training in the use of firearms. The Chief of Police or his/her designee shall approve all department firearms before they are acquired and utilized by any member of this department.

312.2 AUTHORIZED WEAPONS

No firearms will be carried that have not been thoroughly inspected and approved by the Rangemaster. Except in an emergency, or as directed by a supervisor, no firearm carried under police authority shall be carried by a member who has not qualified with that weapon at an authorized department range.

Any firearm carried under police authority will be approved by the Chief of Police or his designee. Restrictions may be placed upon certain weapons that are used in a back up capacity or an off duty capacity.

312.2.1 DUTY WEAPONS

The authorized departmental issued handguns are listed below. Carrying a non department issued firearm as a primary duty weapon is not permitted unless authorized by the Chief of Police or his designee. The Rangemaster will keep an inventory of all department issued handguns and all department handguns in the department armory. An audit of all department handguns will be conducted each calendar year.

Additionally, officers working in a plain clothes assignment may also carry the Glock 30 pistol.

| <u>MAKE</u> | <u>MODELMODELMODEL</u> | <u>CALIBER</u> |
|---------------------------|----------------------------------|----------------|
| <u>Glock</u> | <u>21 or 21SF</u> | <u>.45</u> |
| <u>Glock</u> | <u>17</u> | <u>9mm</u> |
| <u>Glock</u> | <u>19</u> | <u>9mm</u> |
| <u>Glock</u> | <u>30</u> | <u>.45</u> |
| <u>Smith & Wesson</u> | <u>M & P</u> | <u>.45</u> |
| <u>Smith & Wesson</u> | <u>M & P and M & P L</u> | <u>9mm</u> |

312.2.2 AUTHORIZED OFF-DUTY WEAPONS

The carrying of firearms by sworn officers while off-duty is permitted by the Chief of Police, but may be rescinded should circumstances dictate (e.g., administrative leave). Sworn officers who choose to carry a firearm while off-duty, based on their authority as a peace officer, will be required to meet the following guidelines:

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- (a) The weapon shall be of good quality and workmanship (e.g., Colt, Glock, Smith & Wesson, Browning, Sig-Sauer, etc.) and approved by the Chief of Police or his designee.
- (b) The purchase of the weapon shall be the responsibility of the officer.
- (c) It is highly recommended that any weapon carried off-duty is the same or similar to the duty issued weapon.
- (d) The weapon shall be carried concealed at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.
- (e) It will be the responsibility of the officer to submit the weapon to the Rangemaster for inspection prior to being carried off-duty. The Rangemaster shall ensure that the officer is proficient in handling and firing the weapon and it will be carried in a safe manner. The weapon shall be subject to periodic inspection by the Rangemaster. The officer will successfully qualify with the weapon prior to it being carried and thereafter once every six months. The range qualification dates will be specified by the Rangemaster.
- (f) A complete description of the weapon shall be contained on the qualification record approved by the Rangemaster.
- (g) If any member desires to use more than one weapon while off-duty, he/she may do so, as long as the officer meets all the requirements set forth in this policy for each weapon used.
- (h) Officers shall only carry department-authorized ammunition.
- (i) When armed, whether on- or off-duty, officers shall carry their badge and department identification.

The conditions of this section are not applicable in regard to firearms carried during recreational use or in those instances that are permitted for any other citizen.

312.2.3 AMMUNITION

Officers shall carry only department-authorized ammunition. Officers shall be issued fresh duty ammunition in the specified quantity for all department issued firearms during the officer's first scheduled qualification each year. Replacements for unserviceable or depleted ammunition issued by the department shall be dispensed by the Rangemaster when needed in accordance with established policy.

312.2.4 ALCOHOL AND DRUGS

Weapons shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

312.3 SAFE HANDLING OF FIREARMS

The intent of this policy is to promote proper firearm safety on and off duty. Employees shall maintain the highest level of safety when handling firearms and shall consider the following:

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312.3.1 SAFETY CONSIDERATIONS

- (a) Officers shall not unnecessarily display or handle any firearm.
- (b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Officers shall not dry fire or practice quick draws except under Rangemaster supervision.
- (c) Any member who discharges his or her weapon accidentally or intentionally, on or off-duty, except during training or recreational use, shall make a verbal report to his/her supervisor as soon as circumstances permit and, if the occurrence was on-duty, shall file a written report with their Division Commander prior to the end of shift, unless directed otherwise. If off-duty, as directed by the supervisor.
- (d) Officers shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (e) Officers shall not place or store any firearm or other weapon on Department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing a prisoner, but shall place all firearms in a secured location. It shall be the responsibility of the releasing officer to make sure that persons from outside agencies do not enter the holding cell area with any firearm.
- (f) Officers shall not use any automatic weapon, heavy caliber rifles, gas or other types of chemical weapon (from the armory), except with approval of a supervisor.
- (g) Any weapon authorized by the department to be carried on or off duty that is found by the officer to be malfunctioning or needing service shall not be carried and shall be promptly presented to the department Rangemaster for inspection. Any weapon determined to be in need of service or repair during an inspection by a department Rangemaster, will be immediately removed from service. If the weapon is the officer's primary duty weapon, a replacement weapon will be issued until the duty weapon is again rendered serviceable.

312.3.2 STORAGE OF FIREARMS AT HOME

Officers shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control in a manner that will keep them inaccessible to children and irresponsible adults.

312.4 FIREARMS QUALIFICATIONS

All sworn personnel are required to qualify twice a year with their duty weapon, off-duty weapon(s), and secondary weapon(s) on an approved range course. All sworn personnel will be required to attend quarterly ranges unless specifically excused. The Rangemaster shall keep accurate records of all ranges, course of fire, qualifications, repairs, maintenance, training or as directed by the Administrative Captain. In addition to regular qualification schedules, the Rangemaster shall be responsible for providing all sworn personnel with annual practical training designed to

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simulate field situations. At least annually, all personnel carrying a firearm will receive training on, and demonstrate their knowledge and understanding of the department Use of Force policy.

All firearms proficiency training and qualification courses shall be conducted under the supervision of currently certified firearms instructors.

312.4.1 NON QUALIFICATION

If any officer is unable to qualify for any reason, including injury, illness, duty status, or scheduling conflict, that officer shall submit a memorandum to his or her immediate supervisor prior to the end of the required shooting period.

Members who repeatedly fail to qualify will be relieved from field assignment and appropriate disciplinary action may follow.

Sworn members who fail to qualify on their first shooting attempt shall be provided remedial training until proficiency is demonstrated and will be subject to the following requirements:

- (a) Additional range assignments may be required until consistent weapon proficiency is demonstrated.
- (b) Members shall be given credit for a range qualification after remedial training and a qualifying score is obtained.
- (c) No range credit will be given for the following:
 1. Unauthorized range make-up.
 2. Failure to qualify after remedial training.

312.5 RANGEMASTER DUTIES

Any person serving in the capacity as a Rangemaster for the Milwaukie Police Department must be currently certified as a firearms instructor. The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Training Sergeant after each range date. Failure of any officer to sign in and out with the Rangemaster may result in non-qualification.

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty weapons carried by officers of this department to verify proper operation. The Rangemaster has the authority to deem any privately owned weapon unfit for service. The officer will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected by the Rangemaster.

312.6 MAINTENANCE AND REPAIR

Firearms carried on duty shall be maintained in a clean, serviceable condition. Since the use of personally owned weapons is at the option of the individual officer, that officer will be responsible for the furnishing, maintenance and repair of such weapon.

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312.6.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

The Rangemaster shall be the only person authorized to repair or modify any department-owned weapon. All repairs and/or modifications of department issued weapons not performed by the Rangemaster must be approved in advance by the Rangemaster and accomplished by a department approved gunsmith.

Any repairs or modifications to the officer's personally owned weapon shall be done at his or her expense and must be approved by the Rangemaster.

312.7 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to personnel who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure purposes.
- (b) Officers must carry their department identification card, which must contain a full-face picture, the officer's signature and the signature of the Chief of Police or the official seal of the Department, and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).
- (c) In accordance with TSA procedures, the Department will obtain a message containing a unique alphanumeric identifier from TSA through the National Law Enforcement Telecommunications System (NLETS) prior to the officer's travel. The officer must present the message to airport personnel as authorization to travel while armed on the day of travel.
- (d) An official letter signed by the Chief of Police authorizing armed travel must accompany the officer. The letter must outline the officer's need to fly armed, must detail his/her itinerary and should include that the officer has completed the mandatory TSA training for law enforcement officers flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by a certified instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.
- (g) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

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- (h) Officers should not surrender their firearm but should try to resolve any problems through the flight captain, ground security manager, or other management representative of the air carrier.
- (i) Officers shall not consume alcoholic beverages while aboard an aircraft or within eight hours prior to boarding an aircraft.

312.8 CARRYING FIREARMS OUT OF STATE

Qualified active full-time officers and qualified retired officers (see Policy Manual § 220) of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 United States Code 926B and C):

- (a) The officer shall carry his/her Department identification whenever carrying such weapon.
- (b) Qualified retired officers shall also carry certification of having met firearms qualification within the past 12 months.
- (c) The officer is not the subject of any current disciplinary action.
- (d) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (e) The officer will remain subject to this and all other Department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authorities may not shield an officer from arrest and prosecution in such locally restricted areas.

Visiting active and retired peace officers from other states are subject to all requirements set forth in 18 United States Code 926B and C.

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314.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to minimize the potential for pursuit-related collisions. Vehicular pursuits require officers to exhibit a high degree of common sense and sound judgment. **Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers.**

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the potential risk to public safety created by vehicular pursuits, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved. This includes circumstances where Department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicular pursuits are often unpredictable, and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Officers must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Officers' conduct during the course of a pursuit must be objectively reasonable, that is, what a reasonable officer would do under the circumstances. An unreasonable individual's desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement.

314.1.1 DEFINITIONS

Pursuit: A vehicle pursuit is an event involving one or more law enforcement officers attempting to apprehend a suspect who is attempting to avoid arrest while operating a motor vehicle by using high speed driving or other evasive tactics such as driving off a highway, turning suddenly, or driving in a legal manner but willfully failing to yield to an officer's signal to stop.

Blocking or Vehicle Intercept - A very low speed coordinated maneuver where two or more patrol vehicles simultaneously intercept and block the movement of a slow moving or stopped suspect vehicle, the driver of which may be unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit. Blocking is not a moving or stationary roadblock.

Boxing In – The placement of patrol vehicle(s) into the path of a suspect vehicle, with the intent of slowing or stopping the suspect vehicle. This tactic may be employed preemptively, meaning without lights/siren warnings, if a pursuit of the subject vehicle would be permitted under Section 314.2.1. of this policy. This tactic may also be employed preemptively in a static environment (e.g., the driver appears incapacitated or unconscious; the subject vehicle is stationary in a parking

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lot) if the benefit gained outweighs the inherent risks of the maneuver. Finally, this tactic may be employed preemptively in a dynamic environment (e.g., the subject vehicle is temporarily stopped at a traffic control device) when there is probable cause to arrest a suspect in a vehicle and the totality of the circumstances indicates the suspect will attempt to avoid detention and arrest, or when the suspect's driving behavior displays a willful disregard for the safety of others which reasonably places the public in immediate danger of serious bodily harm or death.

Ramming- The deliberate use of a patrol vehicle to cause forceful impact to a suspect vehicle which is traveling over 10 MPH, in order to bring the suspect vehicle to a stop.

Roadblocks - A tactic designed to stop a violator's vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the violator's vehicle. This tactic is also often referred to as a barricade or blockade.

Pursuit Intervention Technique (PIT) – A maneuver designed to end a pursuit by intentionally contacting the front quarter-panel of a moving police vehicle with the rear quarter panel of a violators moving vehicle, causing the violators vehicle to spin out.

Spikes or Stop Sticks - A device that can be extended across the roadway and is designed to puncture and slowly flatten the tires of the pursued vehicle, thereby gradually stopping the pursuit.

Termination – To intentionally stop a police vehicle pursuit by involved officers or supervisors. Officers terminating from a pursuit shall, as soon as practical, reduce their speed to posted limits, shut off forward facing emergency lights and siren, and acknowledge over the radio they have terminated their participation in the pursuit. Often one goal of termination is to reduce the risk of dangerous driving by the violator and demonstrate police are no longer chasing the violator. In addition, Officers should consider, if practical, pulling over to the side of the road or turning off to a side street to indicate they are no longer actively pursuing the suspect vehicle.

Supervisor: Any acting watch commander, sergeant, captain or chief.

Slack Pursuit: A technique by which the pursuing officer reduces their speed, intentionally creating significant distance between the police vehicle and the fleeing vehicle to encourage the violator to slow down by reducing the actual or perceived pressure.

Pinning: A coordinated maneuver involving one or more police vehicles making calculated contact with the front and/or rear of a violators vehicle which is stopped or moving under 10 MPH, to try to prevent the violator / vehicle from being able to drive away.

314.2 OFFICER RESPONSIBILITIES

While engaging in a vehicle pursuit Officers must drive with due regard for the safety of all other persons. However, while engaging in a vehicle pursuit, officers are generally not required to follow the rules of the road (ORS 820.300). This exemption only applies to emergency vehicles using emergency lights and sirens (ORS 820.300; ORS 820.320). This following policy is established to provide Officers with guidelines for driving with due regard and caution for the safety of all persons, as required by ORS 820.300(2).

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314.2.1 WHEN TO INITIATE A PURSUIT

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle, provided there is a felony charge. Pursuits of vehicles for violations, status offenses, and misdemeanors are prohibited. Pursuits require explicit supervisory approval as soon as possible after initiation.

The department recognizes an initial assessment needs to take place to determine if the vehicle or pursuit is related to any crimes in our or surrounding jurisdictions, determine if the driver can be identified and evaluate how close other officers are and what intervention options are reasonable. Vehicle pursuits can continue long enough for the officer and shift supervisor to evaluate those options, observe driving and consider intervention options such as spike strips, pursuit intervention techniques etc. provided the risks of the driving in the pursuit do not outweigh the benefit of apprehension.

Officers are authorized to engage in a pursuit in the following circumstances:

- (a) When the officer has an objectively reasonable belief there is a felony criminal charge associated with the vehicle or driver. Attempt to Elude alone with no other factors is not a reasonable justification to pursue if the initial attempt to stop was based on a violation only. The seriousness of the crime must be constantly considered and evaluated against the hazards of the pursuit when initiating and continuing in a vehicle pursuit.
- (b) When an officer reasonably suspects that a violent felony will be committed if the subject is allowed to escape or that allowing the suspect to escape poses an immediate serious risk to the public, even if the subject is known and could be apprehended later.
- (c) When an officer observes ongoing reckless driving, which is creating substantial danger to the general public. The driving conduct must be observed by the officer prior to the initiation of a stop and the driving conduct cannot be the result of police intervention, contact or other action. The pursuing officer and Supervisor must constantly evaluate the risk the pursuit creates against the need to apprehend the driver. The pursuing officer must be totally forthcoming with the supervisor and dispatch center regarding changing speeds, controlled intersections, and other risk factors, to give the supervisor the opportunity to evaluate the risk of the pursuit.
- (d) If a driver is failing to stop or yield for a police emergency vehicle but driving at posted or safe speeds, and managing intersections safety, the sergeant and officer may not be required to terminate the pursuit immediately based on the risk. However, pursuit intervention techniques and options such a box-in and PIT can be evaluated by the sergeant to stop the suspect vehicle.
- (e) When the officer has articulable reasonable suspicion, the driver is under the influence of intoxicants based on driving and observations prior to initiating the traffic stop. The officer must be able to articulate in detail how the driving of the suspect posed a consistent and ongoing danger to the public, prior to the pursuit.

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314.2.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspects' escape. Additionally, any officer may terminate a pursuit if the officer feels conditions or circumstances are not safe to continue.

The factors listed in WHEN TO INITIATE A PURSUIT are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, pedestrians and themselves when electing to continue a pursuit. In the context of this policy, the term terminate shall be construed to mean discontinue or to stop chasing the fleeing vehicles. Upon terminating a pursuit, an Officer shall turn off emergency lights, siren and announce the pursuit has been terminated on the radio so that assisting units are also aware the pursuit has been terminated.

In addition to the factors listed in the When to Initiate a Pursuit subsection of this policy, the following factors should also be considered in deciding whether to terminate a pursuit:

- (a) If an officer elects to pursue a driver based on reckless driving and the driving/pursuit becomes more dangerous than the original reckless driving, by running red lights or stop signs etc., they must terminate the pursuit because the risk outweighs the government interest.officers
- (b) If the officer loses sight of the pursued vehicle and the location is not known.
- (c) Officer's pursuit vehicle sustains any type of damage that renders it unsafe to drive.
- (d) Extended pursuits of violators for misdemeanors not involving violence or risk of serious harm (independent of the pursuit) are expressly prohibited
- (e) Due to hazards to uninvolved bystanders or motorists.
- (f) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officerswill terminate the pursuit and apprehend the offender at a later time.
- (g) When directed by any other officer or a supervisor.
- (h) In all cases the inherent risk to the public will be the highest priority for considering when to terminate a pursuit.

314.2.3 SPEED LIMITS AND ADDITIONAL FACTORS THAT MUST BE CONSIDERED

The speed of a pursuit is one of several factors that should be evaluated on a continuing basis by theofficer and supervisor. Evaluation of vehicle speeds shall take into consideration public safety, officer safety and the safety of the occupants of the fleeing vehicle.

Should high vehicle speeds be reached during a pursuit, officers and supervisors shall also consider these factors when determining the reasonableness of the pursuit:

- (a) Whether the pursuit speeds are unsafe for the surrounding conditions.

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- (b) Whether the speeds being reached are beyond the driving ability of the officer.
- (c) Whether the speeds are beyond the capabilities of the police vehicle thus making its operation unsafe.
- (d) If Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of apprehending the suspect.
- (e) The emergency equipment present on the vehicles used in the pursuit is inadequate.
- (f) Availability of other resources such as air units.
- (g) Whether the police unit is carrying passengers other than police officers. Pursuits will not be undertaken with prisoners or passengers in the vehicle.

314.3 PURSUIT UNITS

Pursuit units should be limited to three vehicles; however, the number of units involved will vary with the circumstances. An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the suspects. All other officers should stay out of the pursuit, but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

314.3.1 MOTORCYCLE OFFICERS

A distinctively marked patrol vehicle equipped with emergency overhead lighting should replace a police motorcycle as primary and/or secondary pursuit unit as soon as practical.

314.3.2 VEHICLES WITHOUT OVERHEAD LIGHT BARS

Absent a reasonable alternative, and then only when human life is in immediate danger, department vehicles not equipped with emergency lights and siren are prohibited from initiating or joining in any pursuit. Officers driving units without an overhead light bar should terminate their involvement in any pursuit immediately upon arrival of a sufficient number of emergency police vehicles or any air unit. The exemptions provided by ORS 820.300 do not apply to officers using vehicles which do not qualify as emergency vehicles under ORS 801.260.

314.3.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the insuring the pursuit complies with department policy. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspects without unreasonable danger to themselves or others.

The primary officer must notify LOCOM that a vehicle pursuit has been initiated and as soon as practical provide information including, but not limited to:

- (a) Reason for the pursuit.
- (b) Location and direction of travel.
- (c) Speed of the fleeing vehicle.

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- (d) Description of the fleeing vehicle and license number, if known.
- (e) Number of known occupants.
- (f) The identity or description of the known occupants.
- (g) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

In order to concentrate on pursuit driving the primary unit should relinquish the responsibility of broadcasting the progress of the pursuit as soon as practical to a secondary unit or aircraft joining the pursuit, unless practical circumstances indicate otherwise.

314.3.4 SECONDARY UNITS RESPONSIBILITIES

The second officer in the pursuit is responsible for the following:

- (a) The officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit
- (b) Remain a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.
- (c) The secondary officer should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.
- (d) Provide updates on the speed, how the violator is managing each controlled intersection, if the violator is going into oncoming traffic and if there are any near collisions.
- (e) The secondary officer shares the responsibility of ensuring the pursuit is in compliance with this policy and the responsibility of terminating the pursuit if the hazards of the pursuit outweigh the need to apprehend the suspect, based on the nature of the offense and the risks of the pursuit.

314.3.5 PURSUIT DRIVING TACTICS

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles so they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
 2. Pursuing units should exercise due caution when proceeding through controlled intersections.

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3. The way the violator manages controlled intersections should be a significant factor in continuing or terminating the pursuit and should be explicitly broadcast on the radio.
- (c) As a general rule, officers should not pursue a vehicle driving left of center (wrong way) on a freeway. In the event that the pursued vehicle does so, the following tactics should be considered:
1. Requesting assistance from an air unit.
 2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
 3. Requesting other units to observe exits available to the suspects.
 4. Notifying other jurisdictional agency when it appears the pursuit may enter that jurisdiction.
- (d) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit.

314.3.6 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved, during or at the termination of the pursuit, unless directed by a supervisor.

Non-pursuing personnel assigned to assist at the termination of the pursuit should respond in a non-emergency manner, observing the rules of the road, unless directed otherwise by a supervisor.

The primary and secondary units should be the only units operating under emergency conditions (emergency lights and siren) unless other units are assigned to the pursuit.

314.3.7 PURSUIT TRAILING

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of supervisor, trail the pursuit to the termination point in order to provide necessary information and assistance for the arrest of the suspects.

The term trail means to follow the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

314.3.8 AIRCRAFT ASSISTANCE

When available, aircraft assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and

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secondary ground units should consider the participation of aircraft assistance when determining whether to continue the pursuit.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit and provide officers and supervisors with details of upcoming traffic congestion, road hazards, or other pertinent information to evaluate whether or not to continue the pursuit. If ground units are not within visual contact and the air unit determines that it is unsafe to continue the pursuit, the air unit has the authority to terminate the pursuit.

314.4 SUPERVISORY CONTROL AND RESPONSIBILITY

It is the policy of this department that available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department.

The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for the following:

- (a) Upon becoming aware of a pursuit, immediately ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that aircraft are requested if available.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
- (i) Control and manage MPD units when a pursuit enters another jurisdiction.
- (j) Preparing post-pursuit critique of the pursuit for training purposes and quality control purposes. The review will be forwarded to command staff for final approval.

314.4.1 PATROL SERGEANT RESPONSIBILITIES

Upon becoming aware that a pursuit has been initiated, the Patrol Sergeant should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The Patrol Sergeant has the final responsibility for the coordination, control and termination of a vehicle pursuit and shall be in overall command.

The Patrol Sergeant shall review all pertinent reports for content and forward to the Captain.

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If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved officers should, whenever available, switch radio communications to a tactical or emergency channel most accessible by participating agencies.

314.5.1 COMMUNICATION CENTER RESPONSIBILITIES

Upon notification that a pursuit has been initiated, LOCOM will:

- (a) Clear the channel on which the pursuit is being broadcast.
- (b) Coordinate pursuit communications of the involved units and personnel.
- (c) Notify and coordinate with other involved or affected agencies as practical.
- (d) Ensure that a field supervisor is notified of the pursuit.
- (e) Assign an incident number and log all pursuit activities.
- (f) Broadcast pursuit updates as well as other pertinent information as necessary.
- (g) Notify the Patrol Sergeant as soon as practical.

314.5.2 LOSS OF PURSUED VEHICLE

When the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating suspects. The primary unit will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

314.6 INTER-JURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area, and other pertinent facts, should determine whether or not to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether or not such jurisdiction is expected to assist.

314.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Units originally involved will discontinue the pursuit when advised that another agency has assumed the pursuit and the assistance of this agency is no longer needed. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation.

The role and responsibilities of officers at the termination of a pursuit initiated by this agency shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific.

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314.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit shall be responsible for conducting the pursuit into the City of Milwaukie's jurisdiction. The initiating agency shall notify our department and provide the reason for the pursuit as soon as possible, and also attempt to provide the location, direction, vehicle/suspect description, and the reason for the pursuit (the underlying crime and any exceptional circumstances; multiple dangerous suspects, shots fired, armed robbery, etc).

Upon receiving this information, The Patrol Sergeant will advise as soon as possible whether we will engage in the pursuit and also attempt to align communications between agencies/dispatch as soon as possible. A maximum of three (3) units, regardless of combination of department will be engaged in the pursuit unless officer safety or other circumstances indicate otherwise.

When a request is made for this department to assist or take over a pursuit from another agency that has entered this jurisdiction, the supervisor should consider the following additional factors:

- (a) Ability to maintain the pursuit.
- (b) Circumstances serious enough to continue the pursuit.
- (c) Adequate staffing to continue the pursuit.
- (d) The public's safety within this jurisdiction.
- (e) Safety of the pursuing officers.

As soon as practical, a supervisor or the Patrol Sergeant should review a request for assistance from another agency. The Patrol Sergeant or supervisor, after consideration of the above factors, may decline to assist in, or assume the other agency's pursuit.

Assistance to a pursuing allied agency by officers of this department will terminate at the City limits provided that the pursuing officers have sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers shall provide appropriate assistance to peace officers from the allied agency including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

314.7 PURSUIT INTERVENTION

Pursuit intervention is an attempt to stop the suspect's ability to continue to flee in a vehicle through tactical application of technology, tire deflation devices, blocking or vehicle intercept, boxing-in, the PIT, ramming or roadblock procedures.

314.7.1 WHEN USE AUTHORIZED

Use of pursuit intervention tactics should be employed only after approval of a supervisor. In deciding whether to use intervention tactics, officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers and persons in or on the pursued vehicle. With these risks in mind, the decision

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to use any intervention tactic should be reasonable in light of the circumstances confronting the officer at the time of the decision.

It is imperative that officers act within the bounds of legality, good judgment and accepted practices.

314.7.2 DEFINITIONS

Blocking or Vehicle Intercept - A very low speed coordinated maneuver where two or more patrol vehicles simultaneously intercept and block the movement of a slow moving or stopped suspect vehicle, the driver of which may be unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit. Blocking is not a moving or stationary road block.

Boxing-in - A tactic designed to stop a violator's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

Ramming - The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

Roadblocks - A tactic designed to stop a violator's vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the violator's vehicle. This tactic is also often referred to as a roadblock, barricade or blockade.

Pursuit Intervention Technique (PIT) - is a low speed maneuver designed to cause the suspect vehicle to spin out and terminate the pursuit

Spikes or Tack Strips - A device that extends across the roadway designed to puncture the tires of the pursued vehicle.

314.7.3 USE OF FIREARMS

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably appears necessary to protect life. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

314.7.4 INTERVENTION STANDARDS

Any pursuit intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public, or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of deadly force and subject to the requirements for such use. Officers who have not received certified departmental training in the application and use of any intervention tactic or equipment shall consider these facts and requirements prior to deciding how, when, where, and if an intervention tactic should be employed.

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public safety when officers reasonably believe that attempting a conventional enforcement stop will likely result

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in the driver attempting to flee in the vehicle. Because of the potential risks involved this technique should only be employed by officers who have received training in such tactics after giving consideration to the following:

1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
 3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
 4. The target vehicle is stopped or traveling at a low speed.
 5. At no time should civilian vehicles be used to deploy this technique.
- (b) Only those officers trained in the use of the Pursuit Intervention Technique (PIT) will be authorized to use this procedure and only then with approval of a supervisor upon consideration of the circumstances and conditions presented at the time, including the potential for risk of injury to officers, the public and occupants of the pursued vehicle.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method. This policy is an administrative guide to direct officers in their decision-making process before ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, the following factors should be present:
1. The suspect is an actual or suspected felon, who reasonably appears to represent a serious threat to the public if not apprehended or:
 2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner and the driving was reckless and life threatening prior to police initiating contact.
- If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.
- (d) As with all intervention tactics, pursuing officers should obtain supervisor approval before attempting to box a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions presented at the time as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle.
- (e) The use of spike strips should be deployed only when it is reasonably certain that only the pursued vehicle will be affected by their use. Officers should carefully consider the limitations of such devices as well as the potential risks to officers, the public and occupants of the pursued vehicle. The officer should provide advance notification and broadcast via radio the intended location where spike strips will be deployed or have been laid out whenever possible. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children officers and

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supervisors should weigh the potential consequences against the need to immediately stop the vehicle.

- (f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers or other members of the public. Any roadblock implemented should include reasonable line-of-sight distance permitting the suspect to recognize, react to and stop before striking the roadblock.

314.7.5 CAPTURE OF SUSPECTS

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force, which reasonably appears necessary under the circumstances, to properly perform their lawful duties.

Unless relieved by a supervisor the primary officer should coordinate efforts to apprehend the suspect(s) following the pursuit . Officers should consider safety of the public and the involved officers when formulating plans to contain and capture the suspect.

314.8 REPORTING REQUIREMENTS

The following reports should be completed to comply with appropriate local and state regulations:

- (a) The primary officer shall complete appropriate crime/arrest reports
- (b) A field supervisor shall complete a Supervisor's Pursuit After Action memo summarizing the pursuit to his/her department manager to evaluate the pursuit in terms of Department policy. The memo shall minimally contain the following information:
 1. Date and time of pursuit.
 2. Length of pursuit.
 3. Involved units and officers.
 4. Initial reason for pursuit.
 5. Starting and termination points.
 6. Disposition: arrest, citation, etc. Arrestee information should be provided if applicable.
 7. Injuries and/or property damage.
 8. Medical treatment.
 9. Name of supervisor at scene.

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10. A preliminary determination, simply stating whether or not the pursuit appears to be in compliance with this policy.
11. Determine the need for any additional review and/or follow up.

314.8.1 REGULAR AND PERIODIC PURSUIT TRAINING

In addition to initial and supplementary training on pursuits, all sworn members of this department will participate no less than annually in regular and periodic department training addressing this policy and the importance of vehicle safety and protecting the public at all times, including a recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others.

314.8.2 POLICY REVIEW

Each member of this department shall certify in writing that they have received, read and understand this policy initially and upon any amendments.

314.8.3 ANNUAL ADMINISTRATIVE REVIEW

During the first calendar quarter of each year, the Operations Captain will ensure that an annual review of all vehicle pursuit incidents for the previous calendar year is conducted. The analysis will focus on the effectiveness and trends in the use of vehicle pursuits that might suggest training or equipment needs, or policy modification. Specific detail including items such as officer names, case numbers, location of occurrence are not needed for this purpose and therefore will not be part of this process.

314.9 POLICY

It is the policy of this department to weigh the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

314.10 PURSUIT TRAINING

In addition to initial and supplementary training on pursuits, all officers will participate no less than annually, in regular and periodic training addressing this policy and the importance of vehicle safety and protecting the public. Training will include recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others.

314.11 POLICY REVIEW

Officers of this department shall certify in writing that they have received, read and understand this policy initially, upon any amendments and whenever training on the policy is provided.

314.12 ANNUAL REVIEW

During the first calendar quarter of each year, the Operations Captain will ensure that an annual review of all vehicle pursuit incidents for the previous calendar year is conducted. The analysis will focus on the effectiveness and trends in the use of vehicle pursuits that might suggest training or equipment needs, or policy modification. Specific detail including items such as officer names,

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case numbers, location of occurrence are not needed for this purpose and therefore will not be part of this process.

Officer Response to Calls

316.1 PURPOSE AND SCOPE

This policy provides for the safe and appropriate response to emergency and non-emergency situations whether dispatched or self-initiated.

316.2 RESPONSE TO CALLS

Officers shall proceed immediately to calls that are of an emergency nature. A code 3 response should be considered when available information reasonably indicates that a person is threatened with injury or death, a felony property crime is in progress, or serious property damage is imminent and a more immediate law enforcement response is needed to mitigate injury, property loss, or to apprehend the suspect(s).

Officers responding Code 3 shall operate emergency lights and siren as is reasonably necessary pursuant to ORS 820.300 and ORS 820.320.

Responding with emergency light(s) and siren does not relieve the officer of the duty to continue to drive with due regard for the safety of all persons.

ORS 820.320(2) allows officers to omit the use of emergency lights and siren if it reasonably appears that the use of either or both would prevent or hamper the apprehension or detection of a violator. Except as stated in the previous sentence, Officers who fail to use appropriate warning equipment, are not exempt from following the rules of the road (ORS 820.300).

Officers responding to non-emergency calls shall observe all traffic laws and proceed without the use of emergency lights and siren.

316.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify LOCom (Lake Oswego Communications).

If circumstances permit, the requesting officer should give the following information:

- The unit number
- The location
- The type of emergency

316.5 RESPONSIBILITIES OF RESPONDING OFFICER(S)

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections as may be necessary for safe operation.

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The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of emergency lights and siren at the legal speed limit. In such an event, the officer should immediately notify Locom (Lake Oswego Communications). An officer shall also discontinue the Code-3 response when directed by a supervisor.

Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.

316.7 SUPERVISORY RESPONSIBILITIES

The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

It is the supervisor's responsibility to terminate a Code-3 response that, in his/her judgment, is inappropriate due to the circumstances.

316.8 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the Code-3 response and respond accordingly. In all cases, the officer shall notify the Patrol Sergeant, field supervisor, or LOCOM of the equipment failure so that another unit may be assigned to the emergency response.

Canines

318.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment law enforcement services in the community, including but not limited to locating individuals and contraband and apprehending criminal offenders.

318.2 ASSIGNMENT

The canine teams shall be assigned to Operations and part of minimum staffing.

Canine teams should be assigned to assist and supplement the Operations Division to function primarily in assist or cover assignments. However, they may be assigned by the Patrol Sergeant to other functions, such as routine calls for service, based on the current operational needs.

Canine teams should generally not be assigned to handle routine matters that will take them out of service for extended periods of time. If such assignment is necessary, it should only be made with the approval of the Patrol Sergeant.

318.2.1 PREPARATION FOR UTILIZING A CANINE

Prior to the use of a canine to search for or apprehend any individual, the canine handler and/or the supervisor on scene

should carefully consider all pertinent information that is reasonably available at the time. The information should include, but

is not limited to, the following:

- (a) The individual's age or estimate thereof.
- (b) The nature of the suspected offense
- (c) Any potential danger to the public and/or other officers at the scene if the canine is released.
- (d) The degree of the resistance or threatened resistance, if any, the subject has shown.
- (e) The potential for escape or flight if the police dog is not utilized.
- (f) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.

As the circumstances permit, the canine handler should make every reasonable effort to communicate and

coordinate with other involved personnel to minimize the risk of unintended injury.

A canine handler shall have the ultimate authority not to deploy the dog. The handler will evaluate each situation and

determine if the use of a canine is technically feasible. Generally, the decision to deploy the dog should remain with the

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handler. However, a supervisor sufficiently apprised of the situation may decide not to deploy the dog. Unless

otherwise directed by a supervisor, assisting personnel should take direction from the handler in order to minimize

interference with the canine.

318.2.2 WARNINGS GIVEN TO ANNOUNCE THE USE OF A CANINE

Unless it would otherwise increase the risk of injury or escape, a clearly audible warning announcing that a canine will be used

if the suspect does not surrender should be made prior to releasing a canine. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary.

If a warning is not to be given, the canine handler, when practical, should first advise the supervisor of his/her decision before releasing the canine. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reason why.

318.2.3 NON-APPREHENSION GUIDELINES

Properly trained canines may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The canine handler is responsible for determining the canine's suitability for such assignments based on the conditions and the particular abilities of the canine. When the canine is deployed in a search or other non-apprehension operation, the following guidelines apply:

(a) Absent a change in circumstances that presents an imminent threat to officers, the canine or the public, such

applications should be conducted on leash or under such conditions that minimize the likelihood that the

canine will bite or otherwise injure the individual, if located.

(b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

(c) Throughout the deployment of the canine in such circumstances, the handler should consider giving periodic verbal

assurances that the canine will not bite or hurt the person.

(d) Once the individual has been located, the handler should place the canine in a down stay or otherwise secured it as soon as

reasonably practicable.

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318.2.4 REPORTING CANINE USE, BITES AND INJURES

Whenever the canine is deployed, a Canine Use Report Form shall be completed by the handler and turned into the patrol

Sergeant before going off duty.

Whenever a canine is deployed and intentionally bites or otherwise causes injury to a suspect, the Canine Supervisor shall be

promptly notified and the injuries documented in a Canine Use Report Form. The deployment and injuries should also be

included in any related incident or arrest report.

Any unintended bite or injury caused by the canine during deployments, operations, trainings, presentations, or under any

other circumstances, either on or off-duty, shall be promptly reported to the Canine Supervisor. Unintended bites or injuries

caused by the canine should be documented in an administrative report, not on a Canine Use Report Form.

The canine handler shall notify the local public health administrator immediately should any canine develop abnormal behavior

within 10 days of biting a person (OAR 333-019-0024).

318.2.5 REPORTING CANINE INJURIES

In the event that a canine is injured, the injury will be immediately reported to the Canine Supervisor.

Medical care for any injured canine should follow the protocol established in the Medical Care of the Canine section of this

policy. The injury will be documented on a Canine Use Report Form.

318.3 CANINE COORDINATOR

The canine coordinator shall be appointed by and directly responsible to the Operations Captain or the authorized designee.

The responsibilities of the coordinator include but are not limited to:

- (a) Reviewing all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.
- (b) Maintaining a liaison with the vendor kennel.
- (c) Maintaining a liaison with command staff and functional supervisors.
- (d) Maintaining a liaison with other agency canine coordinators.
- (e) Maintaining accurate records to document canine activities.

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- (f) Recommending and overseeing the procurement of equipment and services for the teams of handlers and canines.
- (g) Scheduling all canine-related activities.
- (h) Ensuring the canine teams are scheduled for regular training to maximize their capabilities.

318.3.1 REQUEST FOR ASSISTANCE FROM OTHER AGENCIES

The patrol sergeant must approve all requests for canine assistance from outside agencies, subject to the following provisions:

(a) Canine teams should only be used for assignments that are consistent with this policy.

(b) The handler has the ultimate authority to decide whether the canine should be used for any specific assignment.

(c) Canine teams should not be called out while off-duty or used outside the boundaries of the City of Milwaukie unless

authorized by the patrol sergeant.

(d) It shall be the responsibility of the canine handler to coordinate with outside agency personnel in order to minimize the risk of unintended injury.

318.3.2 REQUEST FOR PUBLIC DEMONSTRATIONS

All public requests for a canine team shall be approved by the Unit Coordinator prior to making any commitment.

Canine handlers shall not demonstrate any apprehension work to the public unless authorized to do so by the Unit Coordinator

assigned to oversee the canine program.

318.4 REQUESTS FOR CANINE TEAMS

Operations Division members are encouraged to request the use of a canine. Requests for a canine team from department units outside of the Operations Division shall be reviewed by the Patrol Sergeant.

318.5 APPREHENSION GUIDELINES

Canines may be deployed in the following situations:

- (a) Searches for suspects in and outdoors in the following types of crimes:
 - (1) Felonies;
 - (2) Attempts to elude or escape from custody;
 - (3) Misdemeanors involving use or threatened use of physical force, or

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(4) Persons who are presently dangerous to themselves or others.

(5) The individual is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.

(6) The individual(s) is/are believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine.

Absent a reasonable belief that a suspect has committed, is committing, or is threatening to commit a serious offense, mere flight from a pursuing officer, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.

Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Patrol Sergeant. Absent a change in circumstances that presents an imminent threat to officers, the canine, or the public, such canine use should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the canine as soon as it becomes reasonably practicable.

If the canine has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler should promptly command the canine to release the suspect.

318.5.1 PREPARATION FOR UTILIZING A CANINE

Prior to the use of a canine to search for or apprehend any individual, the canine handler and/or the supervisor on-scene should carefully consider all pertinent information reasonably available at the time. The information should include but is not limited to:

- (a) The individual's age or estimate thereof.
- (b) The nature of the suspected offense.
- (c) Any potential danger to the public and/or other officers at the scene if the canine is released.
- (d) The degree of the resistance or threatened resistance, if any, the subject has shown.
- (e) The potential for escape or flight if the police dog is not utilized.
- (f) The potential for injury to officers or the public caused by the suspect if the canine is not utilized. i

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As the circumstances permit, the canine handler should make every reasonable effort to communicate and coordinate with other involved personnel to minimize the risk of unintended injury.

A canine handler shall have the ultimate authority not to deploy the dog. The handler will evaluate each situation and determine if the use of a canine is technically feasible. Generally, the decision to deploy the dog should remain with the handler. However, a supervisor sufficiently apprised of the situation may decide not to deploy the dog.

Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

318.5.2 WARNINGS GIVEN TO ANNOUNCE THE USE OF A CANINE

Unless it would increase the risk of injury or escape, a clearly audible warning announcing that a canine will be used if the suspect does not surrender should be made prior to releasing a canine. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary.

If a warning is not to be given, the canine handler, when practicable, should first advise the supervisor of his/her decision before releasing the canine. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reasons why.

318.5.3 CANINES IN PUBLIC AREAS

All canines shall be kept on a leash when in areas that allow access to the public. Exceptions would include specific police operations for which the canines are trained.

- (a) Canines shall not be left unattended in any area to which the public may have access.
- (b) When the canine unit is left unattended all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also insure that the unattended unit remains inhabitable for the canine.

318.5.4 HANDLER COMPENSATION

The canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement or memorandum of understanding between the handler and the City (29 UCS § 207).

318.6 NON-APPREHENSION GUIDELINES

Properly trained canines may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The canine handler is responsible for determining the canine's suitability for such assignments based on the conditions

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and the particular abilities of the canine. When the canine is deployed in a search or other non-apprehension operation, the following guidelines apply:

- (a) Absent a change in circumstances that presents an imminent threat to officers, the canine, or the public, such applications should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.
- (b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.
- (c) Throughout the deployment, the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.
- (d) Once the individual has been located, the handler should place the canine in a down-stay or otherwise secure it as soon as reasonably practicable.

318.6.1 EMERGENCY MEDICAL CARE

The handler should notify the Unit Coordinator as soon as practicable when emergency medical care is required. Depending on the severity of the illness or injury, the canine should either be treated by the designated veterinarian or transported to a designated emergency medical facility for treatment. If the handler and dog are out of the area, the handler may use the nearest available veterinarian.

318.6.2 NON-EMERGENCY MEDICAL CARE

Non-emergency medical care will be coordinated through the Unit Coordinator. Any indication that a canine is not in good physical condition shall be reported to a sergeant as soon as practical. All records of medical treatment shall be maintained in the canine handler's personnel file.

318.6.3 NARCOTICS DETECTION

A canine trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:

- (a) The search of vehicles, buildings, bags, and other articles.
- (b) Assisting in the search for narcotics during a search warrant service.
- (c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

A narcotics-detection trained canine will not be used to search a person for narcotics unless the canine is trained to passively indicate the presence of narcotics.

318.7 CONTROLLED SUBSTANCE TRAINING AIDS

Controlled substance training aids are required to effectively train and maintain drug detecting dogs. Further, controlled substances can also be an effective training aid during training sessions for law enforcement personnel and the public.

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The Chief of Police may authorize the use of controlled substances in the possession of the Milwaukie Police Department for training purposes:

(a) Provide the department and the officer receiving the controlled substances possess a current and valid Drug Enforcement Administration registration that specifically authorizes the recipient to possess controlled substances while providing substance abuse training to law enforcement or the community or while providing canine drug detection training.

(b) The controlled substances may be obtained from the Police Technician from evidence seized by the department provided the controlled substances are no longer needed as criminal evidence and are scheduled to be destroyed; or

(c) The controlled substances may be obtained from the United States Drug Enforcement Agency.

318.7.1 SELECTION OF CANINE HANDLER

The following are minimum qualifications for the assignment of canine handler include:

A Milwaukie Police Officer who meets the qualifications listed in 1004.1 (Promotional and Transfer) is currently off probation.

Residing in an adequately fenced single-family residence (minimum 5-foot-high fence with locking gates).

Have a garage that can be secured and can accommodate a canine vehicle.

Living within 30 minutes travel time from the [agencyCityName] [CityCounty] limits.

Agreeing to be assigned to the position for a minimum of three years.

318.8 TRAINING

Before assignment in the field, each canine handler must have completed at least 360 hours of training in the care and use of the law enforcement animal, or must have passed the demonstration of minimum standards established by the Oregon Police Canine Association (OPCA) or other accredited and recognized animal handling organization (ORS 167.310). Cross trained dog teams or those dog teams trained exclusively for the detection of drugs and/or explosives shall be trained and certified to meet the standards established for such detection dogs.

318.9 CONTINUED TRAINING

Each canine team shall thereafter be recertified to current OPCA standards (as applicable) or other accredited and

recognized animal handling organization on an annual basis. Additional training considerations are as follows:

(a) Canine teams shall receive training as defined in the current contract with the department's canine training provider.

(b) Canine handlers are encouraged to engage in additional training with approval of the Unit Coordinator.

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(c) To insure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that

is contrary to the policies of the Milwaukie Police Department.

(d) All canine training should be conducted while on-duty unless otherwise approved by the sergeant assigned to canines.

(e) Department's operational needs should generally not interfere with canine training.

318.9.1 CERTIFICATION REQUIREMENTS

Any dog team failing OPCA canine certification standards (as applicable) or other accredited or recognized animal

handling organization standards shall not be deployed in the field until certification is achieved. When practical,

pending successful certification, the canine handler should be temporarily reassigned to regular patrol duties.

If a detection dog team fails to certify, they will notify the Sergeant assigned to supervise canines and seek additional

training prior to re-testing. Uncertified detection dog teams will not be deployed.

318.9.2 TRAINING RECORDS

All canine training records shall be maintained in the canine handler's training file.

318.10 CANINE HANDLER RESPONSIBILITIES

The canine handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection, and living conditions.

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.
- (c) When not in service, the handler shall maintain the canine vehicle in a locked garage, away from public view.
- (d) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Milwaukie Police Department facility.
- (e) Handlers shall permit the canine coordinator to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.

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- (f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.
- (g) When off-duty, the canine shall be in a kennel provided by the City at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.
- (h) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.
- (i) Under no circumstances will the canine be lodged at another location unless approved by the canine coordinator or Patrol Sergeant.
- (j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine coordinator or Patrol Sergeant.
- (k) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine coordinator so that appropriate arrangements can be made.
- (l) Handlers should not tether a canine in a manner that would violate ORS 167.325(1); ORS 167.330(1); and/or ORS 167.343.

318.11 HANDLER COMPENSATION

The canine handler shall be available for call-out under conditions specified by the canine coordinator.

The canine handler shall be compensated for time spent in the care, feeding, grooming, and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement or memorandum of understanding between the handler and the City (29 USC § 207).

318.11.1 PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of accidental ingestion of these controlled substances by the canine, the following procedure shall be strictly followed:

- (a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler
- (b) The weight and test results shall be recorded and maintained by this department
- (c) Any person receiving controlled substance training samples shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances

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- (d) All controlled substance training samples will be inspected, weighed, and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine coordinator with a copy forwarded to the dispensing agency
- (e) All controlled substance training aids will be stored in locked metal boxes at all times, except during training. The locked metal boxes shall be secured in the trunk/cargo area of the handler's assigned patrol vehicle, or stored in a designated locked and secured area within the department. Only the handler, Unit Coordinator, or other designated parties will have accessibility to the designated secured area. There are no exceptions to this procedure.
- (f) In the event of an accident, injury or other reason where the handler is unable to maintain custody of the training aids, a Supervisor or Unit Coordinator will respond immediately and take custody of the training.
- (g) The Canine Unit Coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action
- (h) Any unusable controlled substance training samples shall be returned to the Property Room or to the dispensing agency. Returned training samples will be weighed and retested for purity
- (i) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency

318.12 EXPLOSIVE TRAINING AIDS

Explosive training aids are required to effectively train and maintain the skills of explosives detection dogs and can also provide effective training for law enforcement personnel and the public. Peace officers are permitted by law to possess, transport, store or use explosives or destructive devices while acting within the scope and course of employment (Oregon Revised Statutes 480.205). Explosive training aids designed specifically for K-9 teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids is subject to the following requirements:

- (a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials they contain.
- (b) An inventory ledger shall be maintained to document the type and quantity of explosives training aids held by the Canine Unit.
- (c) The canine Unit Coordinator shall be responsible to verify the explosives training aids on hand against the inventory ledger once each quarter.
- (d) Only members of the Canine Unit shall have access to the explosives training aid storage facility.
- (e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated

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as the primary custodian while the trainer or second person on scene will be designated as the secondary custodian.

(f) Any lost or damaged explosives training aid shall be promptly reported to the canine sergeant in writing who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

318.13 AVAILABILITY

The canine handler shall be available for call-out under conditions specified by the canine coordinator.

Domestic Violence

320.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

320.1.1 DEFINITIONS

The Milwaukie Police Department "Domestic Violence" policy is drafted in compliance with guidelines established and approved by the Department of Public Safety Standards and Training. The following definitions are provided by Oregon Revised Statutes 107.705:

Abuse - the occurrence of one or more of the following acts between family or household members:

- Attempting to cause or intentionally, knowingly or recklessly causing bodily injury
- Intentionally, knowingly, or recklessly placing another in fear of imminent bodily injury
- Causing another to engage in involuntary sexual relations by force or threat of force

Child - an unmarried person who is under 18 years of age.

Domestic Violence - is abuse committed between family or household members.

Employee - Means any person employed on a full-time or part-time basis by a law enforcement agency. It also includes any unpaid volunteer with enforcement authority, such as a reserve officer.

Family or Household Members - include:

- Spouses and former spouses.
- Adult persons related by blood, marriage, or adoption.
- Persons who are cohabiting or who have cohabited with each other.
- Persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them of a FAPA petition under Oregon Revised Statutes 107.710.
- Unmarried parents of a child

Interfere - to interpose in a manner that would reasonably be expected to hinder or impede a person in the victim's situation.

Intimidate - to act in a manner that would reasonably be expected to threaten a person in the victim's situation, thereby compelling or deterring conduct on the part of the person.

Law Enforcement Agency - Means any federal, state, county, or local criminal justice agency employing persons who have peace officer powers per state statute.

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Menace - To act in a manner that would reasonably be expected to threaten a person in the victim's situation.

Molest - To act, with hostile intent or injurious effect, in a manner that would reasonably be expected to annoy, disturb or persecute a person in the victim's position.

Peace Officer - Any Sheriff, constable, marshal, municipal police officer, member of the Oregon State Police, investigator of the Criminal Justice Division of the Department of Justice or investigator of a district attorney's office and such other persons as may be designated by law.

Restraining Order - Any court order restricting or prohibiting a person's contact with another person or persons, and/or restricting where and when a person may be at a location or time. Such an order may also result in restricting possession of firearms and ammunition. This includes, but is not limited to, restraining orders, and protective orders.

320.2 OFFICER SAFETY

The investigation of domestic violence cases places officers in emotionally charged and sometimes highly dangerous environments. No provisions of this guideline are intended to supersede the responsibility of all officers to exercise reasonable care for the safety of any officers and parties involved.

320.3 ENFORCEMENT OF DOMESTIC VIOLENCE

The Department's policy with respect to domestic violence stresses the enforcement of the laws to protect the victim and is intended to communicate the attitude that violent behavior is criminal behavior and will not be tolerated.

Where there is probable cause to believe a crime involving domestic violence between intimate partners has occurred, the officer will complete a Domestic Violence Lethality Screening and follow the proper protocol based on the victim's responses. The completed form will be turned into records along with the case file. Police records will distribute the completed Lethality Assessment Protocol (LAP). The Officer will include in their report the LAP was followed and whether or not the victim screened in. If a safety plan is put into place, the officer will not detail the specifics of the plan in the written report, only that one was put into place.

320.3.1 MANDATORY ARRESTS

Police officers who respond to an incident of domestic disturbance and have probable cause to believe an assault has occurred between family or household members as defined in Oregon Revised Statutes 107.705, or to believe that one such person has placed the other in fear of imminent serious physical injury, shall arrest and take into custody the alleged assailant or potential assailant. In responding to domestic violence incidents, officers are not required to arrest both parties (Oregon Revised Statutes 133.055).

Police officers shall make reasonable efforts to identify who is the assailant or potential assailant in any incident. In identifying the assailant or potential assailant, an officer shall consider:

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- (a) The comparative extent of the injuries inflicted or the seriousness of threats creating a fear of physical injury.
- (b) If reasonably ascertainable, the history of domestic violence between the persons involved.
- (c) Whether any alleged crime was committed in self-defense; and
- (d) The potential for future assaults.

320.3.2 RELEASE

Once a suspect has been arrested under the provisions of Oregon Revised Statutes 133.055 the suspect shall be taken to jail. Officers have no authority to subsequently release the arrested person and any post incarceration release decision will be the responsibility of corrections personnel.

320.3.3 PRIVATE PERSON'S ARREST

A private person cannot make an arrest of a person for violating the terms of restraining or protective orders: Pursuant to Oregon Revised Statutes 133.225, a private person may arrest another person for any other crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime.

320.3.4 STAND-BY ASSISTANCE

As a condition of a restraining order to prevent abuse, the party being restrained may be required to move from the petitioner's residence, if in the sole name of the petitioner or if it is jointly owned or rented by the petitioner and the restrained party, or if the parties are married to each other. A party may also be restrained from going within a set distance of that residence, unless accompanied by a peace officer.

- (a) A peace officer who accompanies a party removing essential personal effects pursuant to a restraining order shall remain for up to 20 minutes and may temporarily interrupt the removal of property at any time. Restrained parties wishing to remove essential items from a residence only have the right to be accompanied by a peace officer one time.
- (b) When tenancy issues arise, a peace officer's duty to arrest remains unaffected.

320.3.5 INCIDENTS INVOLVING LAW ENFORCEMENT EMPLOYEES

Upon arrival at the scene of a domestic violence incident involving any law enforcement officer or other department employee as the suspect or victim, the handling officer shall immediately notify Locom (Lake Oswego Communications) and request a supervisor be sent to the scene, regardless of the involved employee's jurisdiction. The investigation shall be conducted as any other domestic violence incident as detailed by department policy. If there is a question about whether an incident falls under this policy, contact a supervisor.

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320.3.6 ON-SCENE SUPERVISOR RESPONSE

A supervisor shall, whenever possible, report to the scene of all domestic violence incidents that occur within this jurisdiction where an employee of this or any other law enforcement agency is identified as a suspect or victim, regardless of the involved individual's agency jurisdiction.

- (a) The supervisor will ensure that a thorough investigation is conducted and the reports are forwarded to the District Attorney's Office.
- (b) When an employee of the Milwaukie Police Department is a suspect in domestic violence, and this department is investigating, the on-scene supervisor will affirmatively give the victim an option to request investigation by an outside agency.
- (c) Whenever a law enforcement employee domestic violence call does not result in an arrest, the on-scene supervisor shall submit a written report explaining any and all reasons why an arrest was not made or a warrant was not sought.

320.3.7 ARREST OF A LAW ENFORCEMENT OFFICER

- (a) Whenever a sworn employee of the Milwaukie Police Department is arrested, the supervisor shall relieve the accused of any department issued duty weapon(s).
- (b) If an armed law enforcement officer from another agency or jurisdiction is arrested, that individual's department will be immediately contacted by the supervisor and authorization to seize that individual's duty weapon(s) will be requested.
- (c) The investigating officer or supervisor will also request permission to take any other firearms on scene for safekeeping.
- (d) If the arrested employee is in uniform, he/she should be allowed to change to civilian clothes prior to transport to the jail, if feasible.
- (e) The transporting officer shall ensure that corrections personnel are notified of the person's employee status, to ensure the safety of the employee while he/she is in custody.

320.3.8 ADDITIONAL CONSIDERATIONS

When responding to a domestic violence complaint involving an employee from another law enforcement agency, all responding officers, investigators and supervisors shall, as closely as possible, follow the same procedures established herein. The responding supervisor shall notify the Chief of Police, or designee, of the accused officer's jurisdiction verbally as soon as possible and in writing within 24 hours. In the event the reported incident involves a Sheriff, Chief of Police, Commissioner, or other law enforcement department head, the supervisor shall immediately notify the individual in government who has direct oversight of the individual.

320.4 INVESTIGATIONS

The following guidelines should be followed by officers when investigating domestic violence cases:

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- (a) Calls of reported, threatened, imminent, or ongoing domestic violence, and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Detective Division in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
 - 1. Whether the suspect lives on the premises with the victim.
 - 2. Claims by the suspect that the victim provoked or perpetuated the violence.
 - 3. The potential financial or child custody consequences of arrest.
 - 4. The physical or emotional state of either party.
 - 5. Use of drugs or alcohol by either party.
 - 6. Denial that the abuse occurred where evidence indicates otherwise.
 - 7. A request by the victim not to arrest the suspect.

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8. Location of the incident (public/private).
9. Speculation that the complainant may not follow through with the prosecution.
10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
11. The social status, community status, or professional position of the victim or suspect.

320.4.1 VERIFICATION OF RESTRAINING ORDERS

Whenever a complainant advises of the existence of a restraining order, the officer shall immediately attempt to determine the following:

- (a) Whether a restraining order is on file with LEDS or whether the complainant has a copy of the restraining order in his/her possession.
- (b) Whether a restraining order is still valid as to duration/time.
- (c) Whether the proof of service or prior notice exists or that the suspect was in court when the order was made.
- (d) The terms of the restraining order.

In the event the suspect is no longer at the scene, officers shall document the incident for follow-up investigation.

320.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
 1. Voluntary separation of the parties.
 2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

320.4.3 PROOF OF SERVICE NOT VERIFIED

When the officer verifies that a restraining order exists but cannot verify proof of service or prior knowledge of the order by the suspect, the officer shall perform the following:

- (a) At the request of the complainant and upon presentation of an endorsed copy of the restraining order and a proof of service form, serve a copy of the order on the suspect. Submit the completed proof of service form to the court, regardless of whether or not the suspect is taken into custody.
- (b) Immediately inform the suspect of the terms of the order and place the suspect on notice that violation of the order will result in arrest.
- (c) Obtain the suspect's address.

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- (d) Enforce the order but do not make an arrest for any violation of the order occurring prior to verified proof of service or before an officer's admonition of the terms of the order. If the suspect continues to violate the order after being advised of the terms, an arrest should be made. If the suspect complies with the order the officer shall complete a report detailing the specific terms of the order and advisement, the name of the advising officer, and the date and time of the advisement.
- (e) The officer serving the order on the suspect must obtain a Proof of Service form from the Sheriff's Office, complete, sign and submit it to the issuing court.

320.4.4 WHEN ORDERS ARE NOT VERIFIABLE

If the victim is not in possession of the restraining order and/or for any reason the officer can not verify the validity of the order the following action shall be taken:

- (a) Write a report and provide the report number to the victim.
- (b) Inform the victim of how to contact the appropriate detective or investigation unit for further action.
- (c) Inform the victim of the right to make a private person's arrest for an appropriate criminal offense other than for violating the restraining order.

In domestic violence cases where the suspect has left the scene an investigation should be conducted to determine if a crime has been committed. A written report should be completed and the victim informed of the case number and the follow-up criminal procedure.

320.5 VICTIM ASSISTANCE

Victims may be traumatized or confused. Officers should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the department's domestic violence information handout, even if the incident may not rise to the level of a crime.
- (c) Alert the victim to any available victim advocates, shelters and community resources.
- (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
- (e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
- (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) Seek or assist the victim in obtaining an emergency order if appropriate.

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An officer who has probable cause to believe there are circumstances for a mandatory arrest or that a victim is in immediate danger of abuse may apply for an emergency protective order with the consent or permission of the victim (ORS 133.035).

320.5.1 RECORDING INJURIES AND STATEMENTS

All visible injuries should be photographed regardless of severity and all victims shall receive proper medical care prior to being photographed, if needed or desired. When permitted by law, officers may make a video recording of the injuries and victim statements.

Victims whose injuries are not visible at the time of the incident should be advised to contact the dispatch center, in the event the injuries later become visible. A police officer will be assigned to ensure the injuries are photographed during the course of preparing the case for court.

320.6 VICTIM ASSISTANCE

During the course of investigating and reporting domestic violence cases, an officer may assist a victim in many ways. Some suggested methods of assistance are:

- (a) Assist in obtaining appropriate medical attention if a complainant claims injury, whether visible or not.
- (b) Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for their safety, or the officer determines a need exists.
- (c) Stand by for a reasonable amount of time when a complainant requests police assistance while removing essential items of personal property.
- (d) Explain legal options available to the victim including the private person's arrest process, temporary restraining or stalking orders under the Family Abuse Prevention Act, and in cases of arrest, the follow up procedures and ensuing criminal proceedings.
- (e) Advise the victim of available community resources.
- (f) The officer or on-scene supervisor should caution the victim to be alert for, and to report any future stalking or other criminal behavior by the abuser, and assist the victim in safety planning including access to shelter if necessary.

An Officer who has probable cause to believe there are circumstances for a mandatory arrest or that a victim is in immediate danger of

abuse may apply for an emergency protective order with the consent or premission of the victim (2015 Oregon Laws, c.252 § 1).

320.6.1 WRITTEN NOTICE TO VICTIMS

Officers must provide each person who has been a victim of domestic violence with a copy of the department Domestic Violence Information Card containing information relating to shelters or other services available in the community and notice of the legal rights and remedies available to victims (Oregon Revised Statutes 133.055).

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Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence pamphlet provided to the victim. If the case number is not immediately available, an explanation should be given about how the victim can obtain the information at a later time.

320.7 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

320.8 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

320.8.2 RETURN OF FIREARMS

Weapons taken into custody for safekeeping under §320.8 will be returned to the lawful owner upon request unless the seizing officer or the assigned detective has placed a hold on the weapons pending a petition for retention. Once the petition has been ruled on by the court, the weapons will be released or disposed of in accordance with the court order.

Prior to releasing any weapon, Property personnel shall be required to ensure the person is legally eligible to possess the weapon.

In the event that no timely petition is filed with the court or the court denies such a petition, the seized weapon(s) shall be eligible for release to the lawful owner or other authorized individual

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unless such weapon(s) represent evidence in a criminal matter or there is other independent good cause to continue to retain custody of the weapon(s).

320.10 DISPATCHER'S RESPONSIBILITIES

This Department considers calls of reported, threatened, imminent, or ongoing domestic violence, and the violation of any restraining order issued pursuant to Oregon Revised Statutes 133.310, of extreme importance and shall be ranked among the highest priorities. Dispatchers are not required to verify the validity of the protective order before responding to the request for assistance. All calls of domestic violence should be dispatched as soon as practical.

320.10.1 PUBLIC ACCESS TO POLICY

A copy of this domestic violence policy will be provided to members of the public upon request.

Peer Support and Wellness Program

321.1 PURPOSE AND SCOPE

The Milwaukie Police Department has established a Peer Support Team that utilizes trained department members that offer assistance and appropriate support resources to other department employees who experience professional and/or personal problems that adversely affect their work performance, their family units or themselves.

The department has also established an Officer Wellness Program that is intended to provide for the physical, mental, psychological and spiritual well-being of its members. The program will take a "hire through retire" approach, to insure that all members of the department experience a successful career and family life, and are rewarded with a chance to enjoy retirement.

321.2 DEFINITIONS AND PROGRAM COMPONENTS

Peer Support Program - A team of voluntary and designated sworn and/or non-sworn department employees trained to respond to critical incidents or provide support for personal crisis. This group will utilize additional resources as necessary; other department chaplains(s), local clergy, Responder Life and mental health professionals.

Confidentiality - Statements or comments made in a Peer Support environment are protected conversations under ORS 181A.835. Statements made shall not be discussed with anyone outside the Peer Support environment unless there is imminent danger to others, self, child abuse, elder abuse or criminal activity is revealed. Statements or comments made to a licensed chaplain are protected conversations under ORS 40.260 Clergy/Penitent Privilege.

Critical Incident - Any situation faced by department personnel that may cause an employee to experience unusually strong emotional or physical reactions which have the potential to interfere with the employees' ability to function properly either at work or off-duty. Critical incidents may involve; line of duty deaths or injury, suicide of co-workers, mass-casualty incidents, officer involved shootings or significant events involving children.

Crisis - A set of personal or professional circumstances that adversely impact the emotional health of a department employee, an employee's family member, or work group. A crisis may be a result of an employee or an employee's family member being involved in a critical incident, substance abuse, or problems with relationship, health, family, financial, employment, cumulative effect or other personal problems.

WELLNESS PROGRAM COMPONENTS

Peer support

Chaplain program

On duty fitness program

321.3 PROGRAM DESIGN

This program is designed to:

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- (a) Provide emotional support during and after times of personal or professional crisis to employee who express a need for assistance.
- (b) Promote trust, allow appropriate anonymity and preserve confidentiality for persons using team members within the guidelines of the program.
- (c) Develop team members who can identify personal crises or conflicts and provide guidance or referral to professional or alternate resources when required.
- (d) Maintain an effective peer support training and response program.
- (e) Support employees who have experienced personal tragedies.
- (f) Check on the status of employees who are experiencing serious illnesses or injuries and provide support where desired or needed.
- (g) Provide training and education on mitigating the effects of stress and critical incidents on one's ability to function on the job or in one's personal life.

321.4 DUTIES AND RESPONSIBILITIES OF TEAM MEMBERS

Convey trust, anonymity and assure confidentiality to employees within the guidelines of ORS 181A.835 who seek assistance from the Peer Support Team. Duties also include;

- (a) Complete Responder Life Peer Support Training.
- (b) To sign and abide by "Confidentiality Agreement" annually.
- (c) Intervene on any expressed suicidal or homicidal ideation according to handbook and training guidelines.
- (d) Agree to be contacted and respond (if practical) at any hour.
- (e) Make necessary reports of any disclosed criminal conduct, per agency policy.
- (f) Make necessary reports of any disclosed child or elder abuse, per agency policy.
- (g) Complete and return monthly peer support contact forms.
- (h) Participate in an annual review.

Duties of the CISM team include;

- (a) Complete CISM group and individual crisis response training.
- (b) Be available to respond to critical incidents and participate in Rest, Information and Transition (RITS), Crisis Management Debriefing (CMB), Defusing, or Critical Incident Stress Debriefing (CISD) as needed.

321.5 PROGRAM MANAGEMENT

The overall management of the team will come from the Team Supervisor who will ensure the program is being managed by the Peer Support Advisory Board in accordance with the goals and objectives established for the program.

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321.6 SUPERVISOR DUTIES

Duties of the Peer Team Coordinator include but are not limited to;

- (a) Supervising the program on a daily basis.
- (b) Managing recruitment and screening of program applicants with support from Responder Life Peer Support Liaison.
- (c) Coordinating training of team members with support from Responder Life Peer Support Liaison.
- (d) Developing resources to assist individuals when problem areas are identified with support from Responder Life Peer Support Liaison.
- (e) Offering guidance to team members when necessary.
- (f) Coordinating follow-up response of team members when referrals are made to outside resources.
- (g) Review policy changes and submit changes to the Peer Support Advisory Board for Approval.
- (h) With support from the Responder Life Peer Support Liaison, ensure that all employees are aware of the program through briefings, written collateral, or other literature about the program.
- (i) With support from the Responder Life Peer Support Liaison, respond to all critical incidents to ensure Peer Support Team Members are deployed as needed.
- (j) With support from the Responder Life Peer Support Coordinator, coordinate responses to critical incidents with Rest, Information, and Transition (RITS), Crisis Management Debriefing (CMB), Defusing, or Critical Incident Stress Debriefing (CISD) as needed.
- (k) With support from the Responder Life Peer Support Liaison, coordinate peer support reporting and tracking, Peer Support Advisory Board Meetings, annual policy and program reviews and annual Peer Support Team Member reviews.

321.7 MEMBERSHIP

Membership to the team will be an assignment made by the Chief of Police, or his designee and the team supervisor. The team will consist of;

- (a) Employees of the Milwaukie Police Department, a chaplain will serve as a part of the Peer Support Program and the Peer Support Advisory Board.
- (b) Administrative staff may be attached to the team to assist the supervisor in administering the program.
- (c) A mental health professional trained in Critical Incident Stress Management, will be retained for the Milwaukie Police Department's behalf by Responder Life.

When a vacancy occurs on the team, the Peer Support Advisory Board will review and select a new team member.

Peer Support members will be reviewed on an annual basis. The size of the peer team will also

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be evaluated and team members will be brought on or removed as needed.

321.8 TEAM TRAINING

It is the responsibility of the team Supervisor to ensure that all team members receive competent and up to date training in (minimum of 6 hours annually);

(a) Initial training by Responder Life that meets the industry standard for peer support training for Emergency Service and Public Safety personnel in accordance with ORS 181A.835.

(b) Quarterly trainings will be held providing ongoing training on peer support related topics.

Any team member not meeting the minimum standard for peer team training will be placed on inactive status until required training has been completed.

321.9 CONFIDENTIALITY

The acceptance and overall success of this team will be determined, at least in part, by observance of confidentiality. It is imperative that each member maintain strict confidentiality of all information learned from an individual within the guidelines of ORS 181A.835.

Communications between team member and department personnel shall remain confidential within the Peer Support Team except for those communications identified in ORS 181A.835 which include;

(a) A threat of suicide or homicide by a participant in a peer support counseling session.

(b) Any information relating to the abuse of children, elderly or other information that is required to be reported by law.

(c) Any admission of criminal conduct.

It is critical that all team members become well versed in all aspects of ORS 181A.835. Team members will inform the participant, prior to discussion, of the limitations and exceptions regarding the information revealed. In those cases where any question arises regarding confidentiality, team members should immediately contact the team supervisor or their designee who will advise on the appropriate action to be taken.

321.10 INTERNAL INVESTIGATIONS

It may occur that a team member is called to assist an individual who is or becomes the subject of an internal investigation. The guidelines of ORS 181A.835 must be followed in this circumstance.

The role of team members in internal investigative circumstances should be one of support and assisting individuals through the stress they may face during the disciplinary process. If team members have questions or concerns regarding these situations, they should consult with the team supervisors or their designee.

321.11 CRITICAL INCIDENTS

Tragedies, deaths, serious injuries, hostage situations, threatening situations are examples of critical incidents which may overwhelm normal coping mechanisms, possibly causing unusually

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strong emotional reactions. These reactions have the potential of interfering with an individual's ability to function at a particular scene or at a later time and may lead to traumatic stress. A critical incident may affect an entire responding group, a few people, or only a single individual.

The following are examples of critical incidents that may require a Peer Support Team response:

- (a) Death of a co-worker.
- (b) Mass casualty events.
- (c) Death or major injury to a child.
- (d) Death after prolonged rescue attempts.
- (e) Victim reminding the officer of another.
- (f) Any highly dangerous event.
- (g) An event of high media interest.
- (h) Police personnel causing death or injury to another.

321.12 RESPONSES TO A CRITICAL INCIDENT

Defusing - A short (30 minute) confidential intervention conducted as soon as practical after a critical incident for those personnel involved. Conducted by team members for the "defusing" a critical event and provide an update or status report, briefly discussing acute stress and the methods to reduce its effects. The defusing does not necessarily eliminate the need for a Critical Incident Stress Debriefing.

A confidential (ORS 181A.835) group meeting held immediately after the critical incident. Defusing's are conducted by trained peers, a trained chaplain, or a mental health professional trained in Critical Incident Stress Management. Attendance is mandatory but participation is voluntary.

If part of the CISM team the Peer Support Coordinator should be contacted to conduct the defusing, if not CISM trained they will deploy a CISM trained peer. If the Peer Support Coordinator is not available, the Responder Life Peer Support Liaison will be contacted to either recruit a different peer or conduct the defusing themselves.

RITS (Rest, Information, Transition) - Only used after a large-scale incident and lasting no longer than 30 minutes. Emergency personnel meet to rest, have something to eat and meet with team members prior to returning to duty or to home. The purpose is to decompress before moving to the next assignment, provide practical suggestions for stress management and offer an avenue to those suffering critical incident stress effects.

Debriefing - A confidential (ORS 181A.835), structured group meeting with a mental health professional attending. They are conducted by trained peers, Responder Life Peer Support Liaison, a chaplain and a mental health professional. Debriefings are usually held within 48 to 72 hours after the incident and are restricted to only the people exposed to the incident.

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A debriefing is for the purpose of processing the emotional impact of the event as well to provide educational information regarding critical incident stress and potential stress related symptoms. These methods are helpful to manage potential symptoms. This education may lead to a non-evaluative discussion of reactions and feelings of personnel resulting from the incident. It serves to mitigate the stress impact resulting from exposure to a critical incident.

The peer support member's actions and/or critical incident debriefings will not interfere with any administrative or criminal investigation. It is not the purpose of peer support to discuss anything that would jeopardize an investigation, cause an employee to be disciplined, or cause an employee to admit deliberate violations of policies or procedures of the Milwaukie Police Department.

If a Peer Support Team Member is involved in the incident, they should not conduct the debriefing.

Personnel should be aware that even if they choose to say nothing during a debriefing, their attendance may help a fellow employee. Attending the debriefing is mandatory but participation is voluntary.

Attendance of command staff to a debriefing is to be determined by group participants (i.e. not command staff) if there is a dispute or question it should be answered by the mental health professional. This is a really big deal, in order to keep debriefings emotionally safe, the participants must be allowed to choose if the people they report to will participate.

321.13 GUIDELINES FOR CRITICAL INCIDENT DEBRIEFINGS

Guidelines for Critical Incident Debriefings;

- (a) Strive to be held within 48 to 72 hours after an incident.
- (b) What is shared in the debriefing is privileged and shall be confidential.
- (c) Restricted to people exposed to the incident, Peer Support Team members assigned to individuals, Peer Support Coordinator, Responder Life Liaison, Department Chaplain and Mental Health Professional.
- (d) A debriefing is not a tactical review of the incident. Tactical critiquing should be discouraged.
- (e) Designed to be useful for all involved personnel, including those who do not feel impacted by the incident. More experienced or resilient personnel should be encouraged to attend in order to provide support and encouragement to fellow officers. It is recommended for debriefings to be held at an off-site location.
- (f) It is important to remember involved personnel include more than just those on the scene. Dispatchers and other non-sworn staff members may be involved and impacted.

321.14 CALL OUT PROCEDURE

The Peer Support Team should be called out when the supervisor on scene requests them to be deployed. If Peer Support Coordinator is unavailable contact the Responder Life Peer Support Liaison.

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Individual team members may initiate contact with an employee who is showing signs of crisis or personal internal conflict. Such contact shall be kept confidential per ORS 181A.835. Any outside agency requesting the services of the team shall be put in touch with the team supervisor and the Responder Life Peer Support Liaison. After consulting with the requesting agency, the team supervisor shall either grant or deny the request.

The team supervisor may request outside assistance from a local Peer Support team should the need arise.

Search and Seizure

323.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Milwaukie Police Department personnel to consider when dealing with search and seizure issues.

323.2 REASONABLE EXPECTATION OF PRIVACY

Both the United States and Oregon Constitutions provide every individual with the right to be free from unreasonable government intrusion. As a general rule, members of this department, in order to conduct a search or seizure, should not physically enter any area where an individual has a reasonable expectation of privacy without a legal justification, which may include one or more of the following:

- A valid search warrant
- Exigent circumstances
- Valid consent

With a valid arrest warrant in compliance with Oregon Constitution Article I, Section 9, members of this department may lawfully enter the private residence of the subject of the warrant to arrest that subject if there is probable cause to believe the person resides at the location and is inside the residence.

323.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

Valid consent, Incident to a lawful arrest, legitimate community caretaking interests, vehicle searches under certain circumstances, exigent circumstances, Pat Down (Frisk) Search, and plain view.

Pat down searches requires a lawful stop with a reasonable suspicion the person is carrying a weapon or implements of escape incident to a lawful arrest. In a law full pat down, an officer may pat down the outer surfaces of a person's clothing. If, during a pat-down, the officer feels an object they reasonably suspects may be a weapon by its contour, the officer may reach for and remove that object. The officer must have articulable facts supporting the decision to frisk and be able to explain why they believed the subject might pose an immediate threat to the officer or others. Circumstances which can contribute to justification of a pat-down search include, but are not limited to the following:

- The type of crime or circumstances being investigated

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- Current or prior use or threatened use of weapons
- The behavior and demeanor of the subject
- Visual or physical indicators the subject could be carrying a concealed weapon
- Statements made by the subject or witnesses

A pat-down is an external patting of the subjects outer clothing. Officers should generally not put their hands under the subjects outer clothing unless they feel something they reasonably believe is a weapon.

Employees will ensure their actions related to a pat down search are in full compliance with policy 402. Decisions to conduct a pat down search of a person will not be based solely on the person's assumed membership in a protected class of people, without any other individualized and articulable suspicion of the person being stopped. (ORS 131.625)

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, officer safety related pat downs or searches, and observations of activities and property located on open public areas or in plain view.

Because caselaw regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and familiarity with clearly established rights as determined by case law.

Whenever necessary and/or practicable, officers are encouraged to contact a supervisor, Detective or on-call district attorney to resolve questions regarding search and seizure issues prior to electing a course of action.

323.4 CONSENT

Entry into a location for the purpose of conducting a search for any item reasonably believed relevant to any investigation is permitted once valid consent has been obtained. Consent however, is only valid if the following criteria are met:

- Voluntary (i.e., clear, specific, and unequivocal).
- Obtained from a person with authority to give the consent.
- Does not exceed the scope of the consent given.

Unless unusual circumstances would not otherwise prevent the use of the Department's Consent to Search form, officers should have the individual read the form, ensure he/she understands it, and provide them with a copy after they have signed it.

Unless circumstances otherwise prevent the use of the Department's Consent to Search form, officers should have the individual read the form, ensure they understand it, and provide them with a copy after they have signed it, if practical

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If unusual circumstances prevent the use of the Consent to Search form, officers should describe such circumstances in related report(s).

While there is no requirement that an individual be told of their right to refuse consent, such a warning and the use of the Consent to Search form provide strong support for the validity of any consent.

Consent must be obtained as the product of a free will. It cannot be obtained through submission to authority, expressed or implied.

A person with authority to consent to search should be present or otherwise in a position to communicate a withdrawal of consent should they so desire. Absent other legal justification, any related search should be discontinued at any point that consent is withdrawn.

323.5 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- Reason for the search
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
- What, if any, injuries or damage occurred
- All steps taken to secure property
- The results of the search, including a description of any property or contraband seized
- If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

Temporary Custody of Juveniles

325.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Milwaukie Police Department (34 USC § 11133).

Guidance regarding contacting juveniles at schools or those who may be victims is provided in the Child Abuse Policy.

325.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her own safety or welfare. This includes a juvenile taken into protective custody pursuant to a court order or without an order when there is reasonable cause to believe that (ORS 419B.150; ORS 419B, Oregon Laws, c. 594, § 2a):

- (a) An imminent threat of severe harm to the child exists.
- (b) The child poses an imminent threat of severe harm to self or others.
- (c) An imminent threat that the child may be removed from the jurisdiction of the juvenile court exists.
- (d) The child has run away from home.

This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

Juvenile offender - A juvenile under 18 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense). It also includes a juvenile who possesses a handgun in violation of ORS 166.250 (28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of an officer or other department member at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication, is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object.

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.

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- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) A juvenile being processed in a secure booking area when an unsecure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact.

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, or truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender.

325.2 POLICY

The Milwaukie Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Milwaukie Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

325.2.1 CONSTITUTIONAL RIGHTS ADVISEMENT

In any case where a youth is taken into temporary custody based upon delinquency, the youth should be promptly advised of his/her rights to ensure the admissibility of any spontaneous statements, whether or not questioning is intended.

325.2.2 DISCIPLINE OF JUVENILES

Police personnel are prohibited from administering for the purposes of discipline or punishment any infliction of or threat of physical injury or pain, deliberate humiliation, physical restraint, withholding of meals, or isolation, or detention under conditions which violate the provisions of Oregon Revised Statutes 169.750, subsections (2) to (8), Oregon Revised Statutes 169.076 (7) to (11), (13) or (14) or 169.740, to any juvenile.

325.2.3 CITATIONS IN LIEU OF CUSTODY (OREGONREVISED STATUTES 419C.085 & 419C.370)

- (a) In lieu of taking a youth into custody for an act that would constitute an offense if committed by an adult, an officer may issue a citation for the same offenses and under the same circumstances that a citation may be issued to an adult.

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- (b) If cited, youths will be cited into Juvenile Court unless the violation is a motor vehicle, game, boating or misdemeanor property offense. Those offenses are automatically waived to adult court.

325.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles are not held in temporary holding facilities at MPD. Juveniles may be detained if directly supervised, in other office areas at the Milwaukie Police Department pending review of appropriate next steps. Juveniles who exhibit any of the following conditions should not be held at the Milwaukie Police Department:

- (a) Seriously injured
- (b) A known suicide risk or obviously severely emotionally disturbed
- (c) Significantly intoxicated
- (d) Extremely violent or continuously violent
- (e) A known suicide risk displaying signs of severe emotional distress/trauma
- (f) Demonstrates symptoms of a significant developmental disability

Officerstaking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation.

These juveniles should not be held at the Milwaukie Police Department unless they have been evaluated by a qualified medical and/or mental health professional.

If the Officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release or a transfer is completed.

325.3.1 TEMPORARY CUSTODY REQUIREMENTS

All juveniles held in temporary custody shall have the following made available to them:

- (a) Access to toilets and washing facilities
- (b) One snack upon request during term of temporary custody if the juvenile has not eaten within the past four hours or is otherwise in need of nourishment. The snack shall be provided by the arresting Officer, jailer or as directed by a supervisor
- (c) Access to drinking water
- (d) Privacy during visits with family, guardian, or lawyer
- (e) Provide the juvenile an opportunity to make at least two telephone calls within one hour of being taken into temporary custody. The telephone calls must be made to a parent, guardian, responsible relative, employer, or an attorney

325.3.2 NON-CONTACT REQUIREMENTS

There will be no contact between juveniles held in temporary custody (either non-secure or secure detention) and adults in custody.

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325.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Milwaukie Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the Milwaukie Police Department without authorization of the arresting officer's supervisor or the Patrol Sergeant.

Any juvenile taken into custody will be released to the care of the juvenile's parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event will a juvenile be held beyond five hours from the time of entry into the Milwaukie Police Department (ORS 419B.160; ORS 419C.130).

325.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Milwaukie Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible (ORS 419B.165; ORS 419B.168; 2019 Oregon Laws, c. 594, § 2a). Juvenile non-offenders may not be held in secure custody (34 USC § 11133; ORS 419B.160), absent extraordinary circumstances that prevent transport or release.

Prior to releasing a non-offender to the noncustodial parent, Officer shall run a criminal records check on the noncustodial parent and any adults in the same home as the noncustodial parent (ORS 419B.165).

325.4.2 CUSTODY OF JUVENILE OFFENDERS

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, Officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders may not be held in secure custody (34 USC § 11133).

325.4.3 CUSTODY OF JUVENILE OFFENDERS

Generally, a juvenile offender may be taken into custody:

- (a) When it reasonably appears that the juvenile is a fugitive from another state (ORS 419C.145).
- (b) When there is a court order endorsed as provided in ORS 419C.306 and directing that the juvenile be taken into custody (ORS 419C.080).
- (c) When, if the juvenile were an adult, he/she could be arrested without a warrant (ORS 419C.080).

Officers shall take a juvenile into custody when the Officer has probable cause to believe the juvenile, while in a public building or court facility within the last 120 days, unlawfully possessed a firearm or a destructive device (ORS 419C.080).

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Generally, Officers may issue a citation in lieu of taking the juvenile into custody if a citation may be issued for the same offense and under the same circumstances to an adult. If a citation in lieu of custody is issued, a copy of the citation shall be sent to the District Attorney (ORS 419C.085).

Juvenile offenders should be held in non-secure custody while at the Officers unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

325.4.4 COURT NOTIFICATIONS OF JUVENILE OFFENDERS

Whenever a juvenile offender is taken into custody, the Officer shall promptly notify the juvenile court or counselor that the juvenile was taken into custody (ORS 419C.091). The Officer shall also prepare a written report to be routed to the juvenile court and the District Attorney that includes, at a minimum (ORS 419C.106):

- (a) The juvenile's name, age and address.
- (b) The name and address of the person having legal or physical custody of the juvenile.
- (c) Reasons for, and circumstances under which, the juvenile was taken into custody and, if known, the name and contact information of any victim.
- (d) Efforts taken to notify and release the juvenile to his/her parent, guardian or other person having legal responsibility.
- (e) The date, time, location and to whom the juvenile was released.
- (f) If the juvenile was not released, the reasons why.
- (g) If the juvenile is not released or taken to court, the shelter or place of detention of the juvenile and why the type of placement was chosen.

325.4.5 EXCEPTIONS TO RELEASE OF JUVENILE OFFENDERS

A juvenile offender shall be released to the custody of the juvenile's parent, guardian or other responsible person, except in any of the following circumstances (ORS 419C.100):

- (a) The court has issued a warrant of arrest for the juvenile.
- (b) The Officer has probable cause to believe that release of the juvenile may endanger the welfare of the juvenile, the victim or others.
- (c) When the Officer has probable cause to believe that the juvenile, while in a public building or court facility within the last 120 days, unlawfully possessed a firearm or destructive device.
- (d) If a juvenile offender is not released to the parent, guardian or other responsible person, or to a person identified by the juvenile court, the Officer shall take the juvenile to the county juvenile detention facility or appropriate shelter (ORS 419C.103).

325.4.6 REPORT REQUIRED WHEN A JUVENILE IS TAKEN INTO CUSTODY

Whenever a juvenile is taken into custody, the Officer will prepare a written custody report including, at minimum, the following information:

- (a) The juvenile's name, age and address.

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- (b) The name and address of the person having legal or physical custody of the juvenile.
- (c) Reasons for, and circumstances under which, the juvenile was taken into custody.
- (d) Efforts taken to notify and release the juvenile to his/her parent, guardian or other person having legal responsibility.
- (e) The date, time, location and to whom the juvenile was released.
- (f) If the juvenile was not released, the reasons why.
- (g) If the youth was not released, the shelter or place of detention of the youth.
- (h) The office shall route a copy of the report to the Juvenile Court and the District Attorney.

325.5 NOTIFICATION TO PARENT OR GUARDIAN

As soon as practicable after a juvenile is taken into custody, the Officer taking the juvenile into custody shall notify the juvenile's parent, guardian or other person responsible for the juvenile of the following (ORS 419B.160; ORS 419C.097):

- (a) Reason the juvenile was taken into custody
- (b) Location where the juvenile is being temporarily detained
- (c) Intended disposition
- (d) Time and place of any hearing

325.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the Department, the custody will be promptly and properly documented in the juvenile custody log, including:

- (a) Identifying information about the juvenile being held.
- (a) Date and time of arrival and release from the Milwaukie Police Department.
- (a) Patrol Sergeant notification and approval to temporarily hold the juvenile.
- (a) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender or non-offender.
- (a) Any changes in status.
- (a) Time of all welfare checks.
- (a) Any medical and other screening requested and completed.
- (a) Circumstances that justify any secure custody.
- (a) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Patrol Sergeant will initial the log to approve the custody, including any secure custody, and will also initial the log when the juvenile is released.

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325.6.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

When emergency medical attention is required for a juvenile who is in custody, the paramedics will be called. The Patrol Sergeant will be notified of the need for medical attention for the juvenile.

In cases where injury or illness is life threatening and where lost minutes may be the deciding factor, the arresting officer or the discovering officer should administer first aid prior to the arrival of the paramedics. The juvenile will then be transported to a medical facility.

In the event of a serious illness, suicide attempt, injury or death of a juvenile, the following persons will be notified as soon as possible:

- Emergency Medical Services
- Patrol Sergeant for immediate response
- Command Staff
- Parent or guardian
- The Juvenile Department

When emergency medical attention is required for a juvenile who is either in secure or non-secure custody, the paramedics will be called. The Patrol Sergeant shall be notified of the need for medical attention for the juvenile.

In cases where injury or illness is life threatening and where lost minutes may be the deciding factor, the arresting Officer or the discovering Officer should administer first aid prior to the arrival of the paramedics. The juvenile will then be transported to a medical facility.

In the event of a serious illness, suicide attempt, injury or death of a juvenile, the following persons shall be notified as soon as possible:

- (a) The Juvenile Court
- (b) The parent, guardian, or person standing in loco parentis, of the juvenile

325.6.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

The arresting officer should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill oneself, or any unusual behavior which may indicate the juvenile may harm oneself while in custody in either secure or non-secure detention.

The detaining or transporting officer is responsible to notify the Patrol Sergeant if the officer believes the juvenile may be a suicide risk. The Patrol Sergeant will then arrange to contact a mental health team for evaluation, or to contact the Juvenile Department and arrange for the transfer of the juvenile, providing the juvenile meets the intake criteria. The juvenile will be under constant personal supervision until the transfer is completed.

325.6.3 USE OF RESTRAINT DEVICES

Policy Manual § 306 refers to the only authorized restraint device and applies for juveniles as well.

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It is the policy of this department that restraints will not be used for individuals retained in custody, except as provided by this policy. This policy also applies to juveniles held in temporary custody. The use of a restraint is an extreme measure and only for a temporary measure pending transportation to another facility or until other custodial arrangements can be made. Restraints will only be used under the following circumstances:

- (a) When the juvenile displays bizarre behavior that results in the destruction of property or shows intent to cause physical harm to self or others.
- (a) When the juvenile is a serious and immediate danger to oneself or others.
- (a) When the juvenile otherwise falls under the provisions of ORS 426.228.

Restraint devices include devices which immobilize a juvenile's extremities and/or prevent the juvenile from being ambulatory. Restraints will only be used after less restrictive measures have failed and with the approval of the Patrol Sergeant.

Restraints will only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

As long as the subject is restrained, direct visual observation will be constantly maintained to ensure that the restraints are properly employed, and to ensure the safety and well-being of the juvenile.

The Patrol Sergeant will arrange to have the juvenile evaluated by a mental health team as soon as possible if there is evidence of mental impairment. When mental impairment is suspected, constant personal visual supervision will be maintained in order to ensure that restraints are properly employed and to ensure the safety and well-being of the juvenile. Such supervision will be documented in the police report.

325.6.4 DEATH OF A JUVENILE WHILE DETAINED

In the event of a juvenile's death while being detained at this department, the District Attorney's Office, the Clackamas County Major Crimes Team and the Medical Examiner will conduct the investigation of the circumstances surrounding the death. The Administrative Captain or designee will conduct or coordinate an administrative review of the incident.

A medical and operational review will be conducted in any case in which a juvenile dies while detained at the City of Milwaukie Police Department. The review team will include the following:

- (a) Chief of Police or designee
- (a) Medical Examiner
- (a) The responsible physician and other health care and supervision staff who are relevant to the incident

325.6.5 CURFEW VIOLATIONS

Officers may take a juvenile into custody for curfew violations pursuant to Oregon Revised Statutes 419C.680.

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325.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Milwaukie Police Department shall maintain a constant, immediate presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact.

325.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Milwaukie Police Department will ensure the following:

- (a) The Patrol Sergeant should be notified if it is anticipated that a juvenile may need to remain at the Milwaukie Police Department more than four hours. This will enable the Patrol Sergeant to ensure no juvenile is held at the Milwaukie Police Department more than five hours.
- (a) A staff member of the same sex will supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy. If those functions must happen and we do not have staff of the same sex to supervise, we will immediately transport to the Juvenile Intake and Reception Center in Oregon City.
- (a) Personal visual checks and significant incidents/activities will be noted on the log.
- (a) There will be no viewing devices, such as peep holes or mirrors, of which the juveniles not aware. Therefore, an employee should inform a juvenile under the employee's care that the juvenile will be monitored at all times, unless the juvenile is using the toilet. This does not apply to surreptitious and legally obtained recorded interrogations.
- (b) Juveniles will have reasonable access to toilets and wash basins.
- (c) Food should be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile.
- (a) Juveniles will have reasonable access to a drinking fountain or water.
- (a) Juveniles will have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (b) Juveniles should have privacy during family, guardian and/or lawyer visits.
- (c) Juveniles should be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (a) Blankets should be provided as reasonably necessary.

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- (b) Adequate shelter, heat, light and ventilation should be provided without compromising security or enabling escape.
- (c) Juveniles will have adequate furnishings, including suitable chairs or benches.
- (d) Juveniles will have the right to the same number of telephone calls as an adult in custody.
- (e) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse.

Adult Abuse

327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Milwaukie Police Department members as required by law.

327.1.1 POLICY

It is the policy of the Milwaukie Police Department to treat reports of violence against elderly persons as a high priority criminal activity. This department will investigate all allegations of abuse of elderly persons and persons with disabilities and will work cooperatively with the appropriate agencies and resources to reduce the incidence of abuse. Each incident will be fully investigated and documented in a written report, regardless of the relationship between the victim and the suspect. All cases of suspected elder abuse reported to and/or investigated by the Milwaukie Police Department will follow the countywide protocol established by the District Attorney's multi-disciplinary elder abuse team, if applicable (ORS 430.731).

327.2 DEFINITIONS

For purposes of this policy, the following definitions are provided:

Abuse of an Elder or Dependent Adult -

- (a) Any physical injury caused by other than accidental means, or which appears to be at variance with the explanation of the injury.
- (b) Neglect or failure to provide basic care which leads to physical harm through withholding of services necessary to maintain health and well being.
- (c) Abandonment, including desertion or willful forsaking of an elderly or dependent person or the withdrawal or neglect of duties and obligations owed an elderly or dependent person by a caretaker or other person.
- (d) Unlawful sexual contact.
- (e) Financial exploitation, fraud or the illegal or improper use of a resident's resources for the personal profit or gain of another person.
- (f) Verbal or mental abuse of a resident of a long-term care facility as prohibited by federal law.
- (g) Involuntary seclusion of a resident of a long-term care facility for convenience or discipline.
- (h) Any other criminal act perpetrated against an elderly or dependent persons as a result of another person's legal duty or responsibility for providing care to the elderly or dependent person.

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Adult Protective Services Agency - Means the Oregon State Department of Human Services, Seniors and People with Disability Division or a county welfare department providing services to elderly or dependent persons.

For purposes of Criminal Mistreatment statutes, the following definitions are provided (Oregon Revised Statutes 163.205(2)).

Dependent Person - A person who, because of age or a physical or mental disability, is dependent upon another to provide for the person's physical needs.

Elderly Person - Any person 65 years of age or older.

Legal Duty - Includes, but is not limited to a duty created by family relationship, court order, contractual agreement, or statutory or case law.

327.3 MANDATORY NOTIFICATION

Members of the Milwaukie Police Department shall notify the Department of Human Services (DHS) when a member has reasonable cause to believe that any of the following persons have suffered abuse:

- (a) An elderly adult, age 65 years or older (ORS 124.060)
- (b) An adult with mental illness or developmental disabilities (ORS 430.765)
- (c) A resident of a long-term care facility (ORS 441.640)
- (d) An adult (18 years or older) who is receiving services for a substance use disorder or a mental illness in a state hospital or facility (as defined by ORS 430.735) (ORS 430.765).

Members shall also notify DHS when the member comes in contact with a person who they reasonably believe is abusing any of the above individuals.

For purposes of notification, abuse includes physical injury, neglect, abandonment, verbal abuse, financial exploitation, sexual abuse, sexual offenses, involuntary seclusion, and wrongful use of physical or chemical restraints as provided in ORS 124.050, ORS 430.735, and ORS 441.630.

An adult with mental illness or developmental disabilities means an adult, 18 years or older, with (ORS 430.735):

- (a) A developmental disability who is currently receiving services from a community mental health or developmental disabilities program or facility, as defined by ORS 430.735, or who was previously determined eligible for services as an adult.
- (b) A severe and persistent mental illness who is receiving mental health treatment from any such community program or facility.

327.4 OFFICER'S RESPONSE

All incidents involving actual or suspected elder and dependent abuse shall be fully investigated and appropriately documented.

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327.4.1 INITIAL RESPONSE

Officers may be called upon to effect a forced entry as the first responder to the scene of a suspected elder abuse. Entry should be immediate when it appears reasonably necessary to protect life or property. When the need for an emergency entry is not evident, officers should seek supervisory approval. Officers must be prepared to provide emergency care pending the arrival of medical personnel, if not already present.

327.4.2 STABILIZE THE SITUATION

Officers must quickly assess the situation in an effort to ensure the immediate safety of all persons. Officers shall also consider the following:

- (a) Attempt to identify the victim, suspect and witnesses as well as the roles and relationships of all parties. Parties should be interviewed separately when possible. Frequently it is wrongfully assumed that elderly persons are incapable of accurately reporting the incident. Do not automatically discount the statement of an elderly person
- (b) Preserve the crime scene where evidence may be present. All persons should be removed from the scene until it has been photographed and processed. Any evidence such as injuries that may change in appearance should be photographed immediately
- (c) Assess and define the nature of the problem. Officers should assess the available information to determine the type(s) of abuse that may have taken place or the potential for abuse in the future that may be eliminated by our intervention

327.4.3 SUPPORT PERSONNEL

The following person(s) should be considered if it appears an in-depth investigation is appropriate:

- Patrol Supervisor
- Detective personnel
- Evidence collection personnel
- Department of Human Services, Seniors and People with Disability Division

327.4.4 ENFORCEMENT ACTION

Based on the results of the investigation and considering the safety of the abuse victim, officers may make on-scene arrests when appropriate. Immediate arrest of an abuser (especially when the abuser is a family member or caretaker) may leave the elderly victim without necessary support and could result in institutionalization. The effect of an arrest on the victim should be considered and weighed against the assessed risk and the competent victim's desires. The present and future safety of the victim is of utmost importance.

Relevant statutes may include, but are not limited to, Criminal Mistreatment 1st or 2nd Degree, assault, sex offenses, or any statutes relating to theft or fraud.

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327.5 INVESTIGATIONS AND REPORTING

All reported or suspected cases of adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated. The Department must begin investigations of abuse in a long-term care facility (ORS 441.650):

- Within two hours where a resident's health or safety is in imminent danger or the resident recently died, was hospitalized or was treated in an emergency room.
- Prior to the end of the next working day if circumstances exist that could result in abuse and place the resident's health or safety in imminent danger.

Investigations and reports related to suspected cases of adult abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected adult abuse victim is contacted.
- (b) Any relevant statements the victim may have made and to whom he/she made the statements.
- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.
- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All investigations into suspected cases of adult abuse shall include a personal visit to the elderly person suspected of being abused (ORS 124.070).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential adult abuse and investigated similarly.

Discriminatory Harassment

329.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

This policy also applies to department elected officials (ORS 243.319).

329.2 POLICY

The Milwaukie Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits, and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

329.3 DEFINITIONS

Definitions related to this policy include:

329.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law (ORS 659A.030; ORS 659A.082; ORS 659A.112).

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to the department policy and to a work environment that is free of discrimination.

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329.3.2 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly as a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

329.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission (EEOC) and the Oregon Bureau of Labor and Industries' Civil Rights Division.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

329.4 RESPONSIBILITIES

Any member of the Milwaukie Police Department, regardless of rank that observes another member engaged in misconduct including but not limited to:

- Sexual Harassment or sexual misconduct.
- Discrimination against a person based on age race, color, religion, sex, sexual orientation, national origin, disability.
- Commission of A Crime.
- A violation of the minimum standards for physical, emotional, intellectual and moral fitness for public safety personnel established under ORS 181A.410

The member shall without regard for rank or assignment, intervene and report any other member engaged in any act the member should know or reasonably know is misconduct immediately or as soon as practicable to:

- A direct supervisor of the reporting member.
- A person in the reporting members' chain of command or
- Another person who the reporting member believes has the authority to investigate and impose discipline.

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The Member that has the authority to investigate a report of a use of force that is unlawful or unreasonable and impose discipline shall:

- Upon receiving the complaint investigate within 48 hours after receiving the report.
- Transmit the report to the Department of Justice & Department of Labor and Industries.
- A law enforcement agency shall complete an investigation within three months of the date of the report.
- IF the reported misconduct was committed against a civilian, transmit the report to the Department of Justice.

Failure to intervene or report as required is grounds for disciplinary actions against a police member by the unit employing the member, or for the Department of Public Safety Standards and Training to suspend or revoke the Member certification as provided in ORS 181A.630, 181A.640 and 181A.650.

An employer may not discharge, demote, suspend or in any manner discriminate or retaliate against a police member with regard to promotion, compensation or other terms that the member intervened or reported as required by law. Violation of this policy is an unlawful employment practice as provided in ORS 659A.199

329.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

- (a) Ensure all incidents are report in compliance with House Bill 4205 while continually monitoring the work environment and striving to insure that it is free from all types of unlawful discrimination, including harassment, or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
 1. Unless a member objects in writing, a supervisor designated by the Chief of Police shall follow up with a member once every three months for a year following the date on which the member reported the incident to determine whether the alleged harassment has stopped or if the member has experienced retaliation (ORS 243.321).
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or the Human Resource Director in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

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329.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional standards.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline, in a manner that is consistent with established procedures.

329.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation, or harassment shall be fully documented, and promptly and thoroughly investigated.

329.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

329.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation (ORS 659A.199).

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, the Human Resource Director, or the City Manager.

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329.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

329.6 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the action taken to remedy or address the circumstances giving rise to the complaint.

329.7 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on the appropriate forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- Approved by the Chief of Police, the City Manager, or the Human Resource Director, depending on the ranks of the involved parties.
- Maintained in accordance with the established records retention schedule.

329.7.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

329.8 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

329.8.1 QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT

Employees having questions are encouraged to contact a supervisor, manager, the Chief of Police, Human Resources Director, or the City Manager or they may contact the Bureau of Labor and Industries (BOLI) at their various field offices or by visiting their web site at www.boli.state.or.us.

329.9 ADDITIONAL REQUIREMENTS

The Human Resource Director should consult with the City Human Resources manager to ensure that all required notifications regarding unlawful employment discrimination are available to all employees.

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When any member complains about discriminatory harassment, the person receiving the complaint should provide a copy of this policy to the member (ORS 243.319).

A member may file a complaint with the Bureau of Labor and Industries and also may have other legal remedies under Oregon law (ORS 243.319).

- (a) Administrative complaints regarding federal discrimination claims must be filed within 300 days of the alleged unlawful employment practice (42 USC §2000e-5(e)(1)).
- (b) Administrative complaints regarding state discrimination claims must be filed within five years of the alleged unlawful employment practice (ORS 659A.820(3)).
- (c) A civil lawsuit alleging state discrimination claims must be filed within five years of the alleged unlawful employment practice (ORS 659A.875).
- (d) A civil lawsuit alleging federal discrimination claims must be filed within 90 days of the receipt of a right to sue letter from the Bureau of Labor and Industries and/or the EEOC (42 USC §2000e-16(c)).
- (e) The statute of limitations periods for crimes related to sexual harassment vary from two to 12 years.
- (f) Claims made against the Milwaukie Police Department require advance notice pursuant to ORS 30.275 (ORS 243.319).

A member may file a complaint with the Department within four years from the date of the alleged incident or within the time limitation specified in ORS 659A.875, whichever is greater (ORS 243.321).

A member who believes the member has been subjected to workplace harassment may access available community services and any support services provided by the Department, such as the employee assistance program (ORS 243.321).

No member will be required or coerced into a nondisclosure (confidentiality) or nondisparagement (an agreement not to say anything negative about the Milwaukie Police Department or its members in any form of communication) agreement. A member may voluntarily enter into an agreement that contains a nondisclosure or nondisparagement provision and has a minimum of seven days to revoke said agreement (ORS 243.321).

Child Abuse

331.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Milwaukie Police Department members are required to notify the Department of Human Services (DHS) of suspected child abuse.

331.1.1 DEFINITIONS

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

Child abuse - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency (ORS 419B.010).

331.2 POLICY

The Milwaukie Police Department will investigate all reported incidents of alleged criminal child abuse and ensure that DHS is notified as required by law.

331.3 MANDATORY NOTIFICATION

Members of the Milwaukie Police Department shall notify DHS when a report of child abuse is received or when there is reasonable cause to believe that a child has suffered abuse (ORS 419B.010).

For purposes of notification, a child is an unmarried person under 18 years of age (ORS 419B.005(2)).

For purposes of notification, abuse of a child includes but is not limited to assault or physical injury of a non-accidental nature; rape, sexual abuse, or sexual exploitation, including contributing to the sexual delinquency of a minor; threatened harm; negligent treatment or maltreatment; buying or selling a child; unlawful exposure to a controlled substance or to the unlawful manufacturing of a cannabinoid extract; permitting a child to enter or remain in or upon premises where methamphetamines are manufactured; or any other act described in ORS 419B.005(1)(a).

331.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (OAR 413-015-0305):

- (a) Verbal notification to DHS shall be made immediately to the Oregon Child Abuse Hotline when the officer determines that the report of alleged abuse or neglect requires an immediate joint response.
- (b) Verbal, electronic transmission, or hand-delivered notification to DHS of all other reports of child abuse or neglect shall be made by the end of the next business day.
- (c) Notification, when possible, should include:

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1. The name and contact information of the confidential reporter.
2. The name, address, and age of the child.
3. The name and address of the child's parents or other person who is responsible for care of the child.
4. The nature and extent of the abuse or neglect, including any evidence of previous abuse or neglect.
5. The explanation given for the abuse or neglect.
6. Where the abuse or neglect occurred.
7. Identity and whereabouts of the alleged perpetrator.
8. Any other information that the person making the report believes might be helpful in establishing the cause of the abuse or neglect and the identity and whereabouts of the perpetrator.
9. The name and contact information for the assigned DHS worker and officer.

When the abuse occurs at a facility or by a person from a facility that requires a state license from the Oregon Employment Department, Child Care Division (e.g., child care facility), notification shall also be made to that agency. If the alleged child abuse occurred in a school or was related to a school-sponsored activity, notification shall be made to the Department of Education (ORS 419B.020).

331.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child-appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (ORS 418.747).

331.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, an officer shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

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- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

331.5.1 KARLY'S LAW

In all cases of suspicious physical injury to a child, the investigating officer shall, in accordance with any relevant county multidisciplinary team protocols, (ORS 419B.023):

- (a) Immediately photograph or caused to be photographed any visible injuries or any injuries identified by the child if practicable, and in the manner described in ORS 419B.028.
- (b) Ensure that photographs of the injuries are distributed to the designated medical professional and placed in any relevant files by the end of the next regular business day or within 48 hours, whichever occurs later (ORS 419B.028(2)).
- (c) Ensure that a designated medical professional conducts a medical assessment of the child within 48 hours or sooner, according to the child's medical needs. If a designated medical professional is unavailable for the assessment, the investigating officer must ensure that the child is evaluated by an available physician.

331.5.2 INVESTIGATIONS ON SCHOOL PREMISES

When an investigation of child abuse is conducted on school premises, the investigating officer shall first notify the school administrator of the investigation, unless the school administrator is a

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subject of the investigation. The investigator shall present identification to school staff members. The investigator is not required to reveal information about the investigation to the school as a condition of conducting the investigation. At the investigator's discretion, the school administrator or a school staff member designated by the school administrator may be present to facilitate the investigation. Prior to any interview with the affected child, the investigating officer shall be advised of the child's disabling conditions, if any. These provisions apply to an investigation that involves an interview with the suspected victim of abuse or witnesses and not to investigations or interviews of a person suspected of having committed the abuse (ORS 419B.045).

331.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should make reasonable attempts to contact DHS. Generally, removal of a child from his/her family, guardian, or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to DHS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations (ORS 419B.150):

- (a) When there is reasonable cause to believe any of the following:
 - 1. An imminent threat of severe harm to the child exists
 - 2. The child poses an imminent threat of severe harm to self or others
 - 3. An imminent threat that the child may be removed from the jurisdiction of the juvenile court exists
- (b) When the juvenile court has issued a valid order that the child is to be taken into protective custody
- (c) When it reasonably appears that the child has run away from home

331.6.1 NOTICE TO PARENTS

When an officer takes a child into protective custody, if possible, the officer shall:

- (a) Make reasonable efforts to immediately notify the child's parents or guardian, regardless of the time of day.

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- (b) Advise the reason the child has been taken into custody.
- (c) Provide general information about the child's placement and the telephone number of the local DHS office, including any after-hours telephone numbers (ORS 419B.020).

331.6.2 SAFE HAVEN PROVISION

A parent may leave an infant who is not more than 30 days old at an authorized facility, including this department, as long as the child has no evidence of abuse (ORS 418.017).

When an infant is surrendered to this department, members of the Milwaukie Police Department shall follow the provisions set forth in ORS 418.017.

331.7 INTERVIEWS

331.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

331.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

An officer should not involuntarily detain a child who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
 - 1. A reasonable belief that medical issues of the child need to be addressed immediately.
 - 2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
 - 3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.
- (b) A court order or warrant has been issued.

331.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent

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circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

331.8.1 COURT ORDERS FOR PRESERVATION OF EVIDENCE

When an officer is taking a child into protective custody and has reasonable cause to believe that the child has been affected by sexual abuse and rape, and that physical evidence of the abuse exists and is likely to disappear, the court may authorize a physical examination for the purpose of preserving evidence, if such examination is in the best interest of the child (ORS 419B.020).

331.9 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

331.9.1 SUPERVISOR RESPONSIBILITIES

The Detective Division supervisor should:

- (a) Work with professionals from the appropriate agencies, including DHS, other law enforcement agencies, medical service providers and local prosecutors to develop community-specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Detective Division supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.
- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

331.9.2 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

- (a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the Detective sergeant so an interagency response can begin.

331.10 STATE MANDATES AND OTHER RELEVANT LAWS

Oregon requires or permits the following:

331.10.1 RELEASE OF REPORTS

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (ORS 419B.035).

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Information may be shared to the appropriate military authorities regarding a child who is the subject of a report of child abuse when the parent or guardian of the child is in the military (ORS 419B.015).

331.10.2 COUNTY MULTIDISCIPLINARY CHILD ABUSE TEAM AND PROTOCOL

The Detective Division supervisor should ensure that current written protocols and procedures for child abuse investigations developed by the multidisciplinary child abuse team are available to all department members (ORS 418.747).

331.10.3 CHILD FATALITY REVIEW TEAMS

This department should cooperate with any child fatality review team and investigation (ORS 418.785).

331.10.4 DISPOSITION OF INVESTIGATION

Each investigation of child abuse shall be concluded with one of the following dispositions (ORS 419B.026):

- Founded
- Unfounded
- Undetermined

331.11 TRAINING

The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting forensic interviews.
- (c) Availability of therapy services for children and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to child abuse investigations.
- (f) Availability of victim advocate or guardian ad litem support.
- (g) Recognizing abuse that requires mandatory notification to another agency.

Missing Persons

333.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

333.1.1 DEFINITIONS

Definitions related to this policy include:

At risk - This includes persons who:

- (a) Are 12 years of age or younger.
- (b) Regardless of age, are believed or determined to be experiencing one or more of the following circumstances:
 1. Out of the zone of safety for his/her chronological age and developmental stage.
 2. Mentally or behaviorally disabled.
 3. Drug dependent, including prescribed medication and/or illegal substances, and the dependency is potentially life-threatening.
 4. Absent from home for more than 24 hours before being reported to law enforcement as missing.
 5. In a life-threatening situation.
 6. In the company of others who could endanger his/her welfare.
 7. Absent in a way that is inconsistent with established patterns of behavior and cannot be readily explained. Most children have an established and reasonably predictable routine.
 8. Involved in a situation that would cause a reasonable person to conclude the person should be considered at risk.
 9. Intellectual or developmental disability, or an impaired mental condition such as dementia or brain injury (ORS 181A.320).
 10. A victim of first- or second-degree custodial interference or kidnapping (ORS 181A.310).

Missing person - Any person who is reported missing to law enforcement when that person's location is unknown.

Missing person networks - Databases or computer networks that are available to law enforcement and are suitable for obtaining information related to missing person investigations. This includes the National Crime Information Center (NCIC), the Oregon Law Enforcement Data System (LEDS) and the Oregon State Police Missing Children Clearinghouse.

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333.2 REPORT ACCEPTANCE

There is no waiting period. All personnel shall accept any report, including any telephone report, of a missing person, including runaways, without delay and shall give priority to the handling of these reports. Reports shall be taken on missing persons regardless of jurisdiction.

Patrol personnel should handle the initial missing person report. Department personnel shall promptly assist any person who is attempting to make a report of a missing person or runaway (ORS 146.177).

333.2.1 INITIAL INVESTIGATION

The employee accepting the missing person report should request from the reporting party information or material likely to be useful in identifying the missing person including but not limited to:

- (a) The relationship to the reporting party and why the reporting party believes the person is missing.
- (b) Information on the missing person including alternate names the person uses, the person's date of birth, physical appearance, clothing, identifying marks, physical anomalies, surgical implants and any prosthesis used by the missing person.
- (c) The blood type of the missing person.
- (d) The driver license number and Social Security number of the missing person.
- (e) A description of items believed to be in the possession of the missing person and the description of any vehicle the missing person may have been driving or riding in at the time of disappearance.
- (f) Time and place of last known location and the identity of anyone believed to be in the company of the missing person.
- (g) History of prior missing incidents and the extent to which this incident is a departure from established behavior patterns, habits, or plans.
- (h) The physical and mental condition of the missing person and whether they are taking, and currently have with them, any medications.
- (i) The name and address of the missing person's doctor and dentist.
- (j) Any personal, family history or relationship issues that may be a factor in the person's absence, including the names and addresses of any people the missing person might visit.
- (k) Any circumstances that indicate that the missing person may be at risk of injury or death.
- (l) Any circumstances that may indicate that the disappearance is not voluntary.

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- (m) Obtain recent photographs, fingerprints and/or DNA samples (such as hair) that might be available.
- (n) Attempt to identify the types and account numbers of any credit cards the missing person might have access to, and the location of any bank accounts or other financial resources.
- (o) The name and addresses of the place of employment, schools and other places frequented by the missing person.
- (p) Whether information regarding the missing person has been entered into the Law Enforcement Data System (LEDS) Medical Database (ORS 181.735).

333.2.2 CHILD UNDER TWELVE OR "AT RISK"

In cases where this agency has jurisdiction for the missing person investigation and the missing person is a person at risk, or a child less than twelve years of age, the following steps will be taken:

- (a) A supervisor will be notified.
- (b) Detectives will be notified, including after hours, after an initial search by patrol personnel. Subsequent investigations will be coordinated through the detective sergeant.
- (c) The name, physical description, clothing and any suspected vehicle that may be involved shall be broadcast to other officers on duty. The locate information may also be disseminated to other agencies as appropriate.
- (d) A preliminary search for the missing person should be initiated based on the circumstances present. If the missing person is a child, obtain consent and conduct a complete search of the residence, curtilage, outbuildings, vehicles and other likely places of concealment.
- (e) Consideration should be given to the use of other governmental employees with radios and vehicles such as parks, public works, or related personnel to help locate the missing person.
- (f) Broadcast a BOLO (be on the lookout) or other ATL (Attempt to Locate) to all field units and law enforcement agencies in adjacent jurisdiction. This broadcast should be completed as soon as practical but not longer than one hour after determining the missing person is at risk.

If such a case is within the investigative responsibility of another jurisdiction and is reported to this agency, the employee receiving the report shall ensure that the appropriate law enforcement agency is immediately notified and shall coordinate with that agency as is reasonably necessary to promptly transfer the case.

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333.2.3 CONTINUING INVESTIGATION

If the Milwaukie Police Department has jurisdiction for the missing person investigation, it will be assigned for follow up. On-going investigations of missing persons should include, but not be limited to, the following actions:

- (a) Obtain releases for dental and medical records, and subpoenas for credit card transactions, bank records or other financial records as necessary. Copies of dental records and skeletal x-rays, if available, should be obtained and filed.
- (b) Check hospitals and the State Medical Examiners Office for information on deceased persons matching the description of the missing person.
- (c) Consider the need for more extensive area searches and obtain sufficient resources to assist in that effort.
- (d) Conduct interviews with friends, relatives, co-workers and persons in the vicinity of the location where the missing person was last seen.
- (e) If the missing person is a child, comply with the reporting guidelines for the National Center for Missing and Exploited Children.
- (f) Maintain regular contact with the relatives of the missing person and/or reporting party. Request immediate notification if they should have any contact with the missing person.
- (g) Consider the need for additional locate notices to be sent to other jurisdictions
- (h) Consider using the local media to locate the missing person with approval of the Chief of Police or his designee, and consultation with the family.
- (i) When a person reported missing to this department has not been located within 30 days after the missing person report is made, the assigned investigator shall attempt to obtain a DNA sample of the missing person or from family members of the missing person, and prepare any documentation necessary for use of the samples in conducting searches of DNA databases.

333.3 REPORT PROCEDURES AND ROUTING

Members should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

A copy of every missing person report, excluding a runaway juvenile report that is not considered "At-Risk" shall be routed to the detective sergeant for review.

333.3.1 TRANSMITTING REPORTS TO OTHER JURISDICTIONS

When the Milwaukie Police Department takes a missing person report on a person who lives outside of this jurisdiction, Records shall promptly notify and forward a copy of the report to the agencies having jurisdiction over the missing person's residence and where the missing person was last seen. If the missing person is under 16 or there is evidence that the person may be at-

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risk, the reports must also be forwarded within no more than 24 hours to the jurisdiction of the agency where the missing person was last seen.

333.3.2 STATE AND FEDERAL NOTIFICATION

If a missing person is under the age of 21, LOCOM Personnel shall enter the missing person into the Law Enforcement Data System (LEDS) and the National Crime Information Center (NCIC) Missing Person Files within two hours after accepting the report (42 USC 5779(a) and 42 USC 5780(3)).

If a person who has taken a missing person report of a child (defined by the federal standard of anyone under 21 years old) and has probable cause to believe that custodial interference in the first or second degree or kidnapping in the first or second degree, with respect to a child has occurred, the person taking the report shall notify the Missing Children Clearing House (MCCH) within 24 hours. The mandatory notification requirement on law enforcement will be satisfied by entering the case into LEDS.

333.4 ACCEPTANCE OF REPORTS

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay. This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members who do not take such reports or who are unable to give immediate assistance shall promptly dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any question of jurisdiction.

333.5 INITIAL INVESTIGATION

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

- (a) Respond to a dispatched call as soon as practicable.
- (b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.
- (c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- (d) Broadcast a "Be on the Look-Out" (BOLO) bulletin if the person is under 16 years of age or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 16 years of age or may be at risk.
- (e) Ensure that entries are made into the appropriate missing person networks, as follows:
 1. Immediately, when the missing person is at risk.
 2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.

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- (f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.
- (g) Collect and/or review:
 - 1. A photograph and fingerprint card of the missing person, if available.
 - 2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
 - 3. Any documents that may assist in the investigation, such as court orders regarding custody.
 - 4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (h) When circumstances permit and if appropriate, attempt to determine the missing person's location through his/her telecommunications carrier.
- (i) Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

333.6 FORENSIC IDENTIFICATION

If the missing person is not located during the initial investigation, investigators should ensure that photographs, dental records, fingerprints, DNA samples and x-rays are collected and retained for future comparison to assist in the identification process. Investigators should also inform the parents or the appropriate relatives that they may give a voluntary sample for DNA testing.

If the missing person has not been located within 30 days the investigator shall ensure that a DNA sample, if available, is forwarded as directed to the Oregon State Police (Oregon Revised Statutes 146.187).

333.7 TRAINING

All police personnel shall receive yearly training in missing person investigations.

AMBER Alerts

335.1 PURPOSE AND SCOPE

The safety of Oregon's children is a priority and the State should use every resource available to protect them. The first few hours after a child is abducted are critical to the safe recovery of that child, and it is essential to utilize maximum public participation in the recovery efforts of law enforcement.

The AMBER (America's Missing: Broadcast Emergency Response) Alert Program, using the Emergency Alert System (EAS) in conjunction with television, radio and state highway message boards, provides timely emergency information to the public regarding a child abduction.

Through these means, the public will be notified of the circumstances of a child's abduction and how they can assist law enforcement in the child's recovery. The goal of the AMBER Alert program is the safe return of an abducted child by establishing an effective partnership between the community, the media and law enforcement.

335.1.1 DEFINITIONS

Abduction - An incident in which a child is reported to be involuntarily missing from the person(s) having care-taking responsibilities for the child. Absent an eyewitness to the abduction, agencies should have reliable evidence that the child's disappearance was not voluntary prior to initiating an AMBER Alert request.

335.2 AMBER ALERT ACTIVATION CRITERIA

The AMBER Alert system should only be activated when all of the following criteria exists:

- (a) A confirmed abduction of a child.
- (b) The victim of the abduction is a child age 17 years or younger.
- (c) There is a reasonable belief that the child is in danger of serious bodily harm or death.
- (d) There is enough descriptive information about the child, abductor and/or suspect's vehicle to believe an immediate broadcast alert will help.
- (e) The child's name and other critical data elements, including the Child Abduction flag (CA) and AMBER Alert (AA) flag, have been or will be entered into the National Crime Information Center (NCIC) system.

The AMBER Alert system will not be used in situations where the child is a runaway, missing with no evidence of foul play, or the circumstances involve a custodial situation, unless there is reason to believe the abductor will seriously injure or kill the child. The AMBER Alert is not designed to be used in cases of missing adults.

335.3 ALERT RESPONSIBILITY

The employee receiving the abduction report shall notify the Patrol Sergeant or appropriate Criminal Investigations Supervisor as soon as practicable. The Patrol Sergeant or Criminal

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Investigations Supervisor will then determine whether or not the abduction meets the criteria for triggering an AMBER Alert. The Patrol Sergeant or Criminal Investigations Supervisor shall promptly notify the Chief of Police and the appropriate Division Commander.

335.4 PROCEDURE

- (a) The investigating officer will provide the necessary information to the Patrol Sergeant or Criminal Investigations Supervisor who will coordinate with the Northern Command Center for activation of the AMBER Alert and the release of the information.
- (b) If it is determined through the preliminary investigation that the abduction fits the criteria for an AMBER Alert, the Patrol Sergeant will contact the Oregon State Police Northern Command Center in Salem at 503-375-3555 to request activation of an AMBER Alert and provide them with the abduction information.
- (c) When the decision is made to activate an AMBER Alert the Patrol Sergeant will consult with the Division Commander and determine if the Oregon State Police or Milwaukie Police Department will staff the tip line phones.
- (d) Prior to sending out the AMBER Alert message, consideration should be given to ensuring adequate staffing for the tip line, 9-1-1 lines, and also the media line. AMBER Alerts generate significant public and media interest. It is likely that a high volume of calls from the public and media will be received. Reassigning personnel from other units or requesting of mutual aid from other agencies should be considered.
- (e) The Public Information Officer, Patrol Sergeant or Criminal Investigations Supervisor will prepare an initial press release that includes all available information which might aid in locating the child, such as:
 - 1. The child's identity, age, physical and clothing description.
 - 2. Photograph if available.
 - 3. The suspect's identity, age, physical and clothing description, if known.
 - 4. Pertinent vehicle license number and description if known.
 - 5. Detail regarding location of incident, direction of travel and potential destinations, if known.
 - 6. Contact information for the Public Information Officer or other authorized individual to handle media liaison.
 - 7. A telephone number for the public to call in with leads/information.
- (f) Distribute the press release to the local television and radio stations and to the Oregon State Police for activation of the Emergency Alert System. The Public Information Officer will provide additional news releases and/or briefings as needed.

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- (g) At least two detectives should be assigned to screen and assign leads received at the tip center.
- (h) Information on the abducted child, suspect vehicle and suspect should be entered into the Law Enforcement Data System (LEDS) and the National Crime Information Center (NCIC) as soon as feasible. The suspect's name, if known, should be entered in the "AKA" moniker field. The child's name and other critical data elements, including the child abduction (CA) and AMBER Alert (AA) flags, must be entered into the NCIC system in order to trigger resources of the National Center for Missing and Exploited Children (NCMEC) and the FBI.
- (i) The Records Division will send a statewide Administrative Message (AM) via LEDS with the information. The text of the message will begin with the words, "Oregon AMBER Alert".
- (j) The information in the press release should also be forwarded to the dispatch center so that general broadcasts can be made to local law enforcement agencies.
- (k) The individual responsible for making notifications shall also consider the following resources as the circumstances dictate:
 - 1. Federal Bureau of Investigation (FBI Local Office).
 - 2. National Center for Missing and Exploited Children (800) 843-5678.The FBI and NCMEC will have received notification of the AMBER Alert via the NCIC computer entries. If needed, the OSP Missing Children Clearinghouse is available to assist agencies with any additional notifications or to serve as the liaison with NCMEC.
- (l) The supervisor of the unit investigating the abduction, or other individual responsible for making notifications, shall prepare and fax to the previously described locations, follow-up press releases with updates regarding the search and investigation, or immediately upon locating the abducted child.
- (m) The Northern Command Center (NCC) should be contacted immediately upon locating the abducted child, in order to coordinate the cancellation of the issued AMBER Alert. In addition, those entities which were advised of the abduction should be advised that the child has been located.

335.5 PREPARATION

This department is registered on the AMBER Alert Web Portal at www.oregonamberalert.com and will receive information on any AMBER Alerts in the area.

The Milwaukie Police Department will ensure all personnel are trained on AMBER Alert criteria and the process to activate an AMBER Alert.

Victim and Witness Assistance

337.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

337.1.1 VICTIM COMPENSATION PROGRAM

Victims of compensable crimes, or if deceased, their survivors or dependents, and certain other eligible parties defined in Oregon Revised Statutes 147.025, who suffer compensable losses, may be eligible for compensation from the Oregon Department of Justice.

337.2 DEFINITIONS

Oregon Revised Statutes 147.005 provides definitions for the following:

337.2.1 VICTIM DEFINED

Victim - is a person who:

- (a) Is killed or injured in Oregon, as a result of a compensable crime perpetrated or attempted against that person
- (b) Is killed or injured in Oregon, while attempting to assist a person against whom a compensable crime is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person in the same or similar circumstances
- (c) Is killed or injured in Oregon, while assisting a law enforcement official to apprehend a person who has perpetrated a crime or to prevent the perpetration of any such crime, if that assistance was in response to the express request of the law enforcement official
- (d) Is killed or injured in another state, as a result of a criminal episode that began in Oregon
- (e) Is an Oregon resident killed or injured as a result of a compensable crime perpetrated or attempted against the person in a state, within the United States, without a reciprocal crime victims' compensation program
- (f) Is an Oregon resident killed or injured by an act of international terrorism committed outside the United States
- (g) Is a relative of the corpse, or the corpse itself, if the crime is abuse of a corpse in any degree

337.2.2 COMPENSABLE CRIME DEFINED

Compensable Crime - is the abuse of a corpse in any degree or an intentional, knowing, or reckless act that results in serious bodily injury or death of another person and which, if committed by a person of full legal capacity, would be punishable as a crime in Oregon.

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337.3 ADVISEMENT RESPONSIBILITY

Every employee reporting or investigating a crime where a victim has suffered injury as a direct or proximate cause of that crime will ensure the victim has been provided with information about the existence of the local victim assistance resources. This advisement shall include presenting the victim with a Victim Resource Card, which should include the case number for the specific crime report (Oregon Revised Statutes 147.365).

337.3.1 REPORTING OFFICER RESPONSIBILITY

It shall be the primary responsibility of the reporting officer to make the required advisement as set forth in Policy Manual § 336.3. Such advisement shall be made at a time and place where the victim is able to understand and appreciate its meaning. In the event the victim cannot be identified or due to the nature of the injury cannot be advised, the investigating officer who later contacts or identifies the victim and/or dependents shall make the necessary advisement. The investigating officer shall use discretion and tact in making such advisement.

337.3.2 SUPERVISOR RESPONSIBILITY

It is the responsibility of any supervisor approving a written report where the victim of a crime has sustained injury to ensure that information is included to document the proper advisement being made or the fact that such advisement could not be accomplished. The Criminal Investigations Supervisor is then responsible to ensure that the proper advisement is accomplished and properly documented as the follow-up investigation is conducted.

337.3.3 VICTIM INFORMATION AND NOTIFICATION

When appropriate, officers should advise the victim of the availability of the Victim Information and Notification Everyday (VINE) program. VINE is a free, computer-based telephone service that allows victims to check on an offender's custody status and register to receive automatic notification when an inmate is released from jail. The contact phone number for VINE is printed on the Milwaukie Police Department Victim Information card.

337.4 RECORDS DIVISION RESPONSIBILITY

The Records Manager shall be the liaison officer to the Victim-Witness Assistance Program office. It shall be his/her responsibility to forward copies of police reports requested by Victim-Witness Assistance personnel to verify the criminal activity upon which the application for assistance is based. Policy Manual § 810 regarding release of reports shall be followed in all cases.

337.4.1 VICTIM PERSONAL REPRESENTATIVE

Victims of a person crime, as defined in ORS 147.425, have the right to select a person, 18 years of age or older, to be the victim's personal representative to accompany the victim during phases of an investigation, including medical examinations. The personal representative may only be excluded if there is a belief that the representative would compromise the process (ORS 147.425).

Hate Crimes

339.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias. Bias crimes and incidents have a devastating impact on individuals and communities. Treating bias victims with patience, compassion and dignity, while also accurately and uniformly identifying, investigating, and tracking these incidents is essential for law enforcement agencies and is required by Oregon law.

339.1.1 DEFINITIONS

Definitions related to this policy include:

Bias crime - A bias crime is a criminal offense, including threats of or actual physical violence, property damage, or harassment, committed against a person or property that is motivated in whole or in part, by the offender's bias against another person's race, color religion, disability, gender identity, sexual orientation, or ethnicity/national origin. Oregon bias crimes are codified under ORS 166.155 and 166.165.

339.2 CRIMINAL STATUTES

- (a) Harassment (ORS 166.065)
- (b) Intimidation in the Second Degree (ORS 166.155)
- (c) Intimidation in the First Degree (ORS 166.165)
- (d) Menacing (ORS 163.190)
- (e) Any degree of Assault (ORS 163.160 to ORS 163.185)
- (f) Recklessly Endangering (ORS 163.195)
- (g) Hazing (ORS 163.197)
- (h) Unlawful use of a stun gun, tear gas or mace (ORS 163.212 and ORS 163.213)
- (i) Kidnapping (ORS 163.215 to ORS 163.235)
- (j) Coercion (ORS 163.275)
- (k) Any sex offense (ORS 163.355 to ORS 163.427)
- (l) Stalking (ORS 163.732)
- (m) Any degree of Robbery (ORS 164.395 to ORS 164.415)

Federal law also prohibits discrimination-based acts and may be considered in addition to or in lieu of state law, depending on circumstances (18 USC § 245).

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339.3 PREVENTING AND PREPARING FOR LIKELY HATE CRIMES

While it is recognized that not all crime can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely hate crimes by among other things:

- (a) Officer should make an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes to form and cooperate with prevention and response networks
- (b) Providing victim assistance and follow-up as outlined below, including community follow-up

339.4 INVESTIGATIONS

Whenever any member of this department receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, the following should occur:

- (a) Assigned Officers should promptly contact the victim, witness, or reporting party to investigate the matter further, as circumstances may dictate.
- (b) A supervisor should be notified of the circumstances as soon as practicable.
- (c) Once the in-progress aspect of any such situation has been stabilized (e.g., treatment of victims or arrest of suspects at the scene), the assigned Officers should take reasonable steps to preserve evidence that establishes a possible hate crime.
- (d) Assigned officers should investigate if the suspect's motivation if the crime is even partially due to their perception of the victim's protected class. (A suspect who believed a victim was Muslim and damaged the persons property due to this belief would be guilty of a bias crime, even if the victim wasn't in fact a Muslim or in any other protected class.)
- (e) Based upon available information, Officers should take appropriate action to mitigate further injury or damage to potential victims or the community.
- (f) Depending on the situation, the assigned Officers or supervisor may request assistance from investigators or other resources.(i.e.: Family Services, Women's Resources Center, Victim's Assistance.)
- (g) The assigned Officers should interview available witnesses, victims, and others to determine what circumstances, if any, indicate that the situation may involve a hate crime.
- (h) The assigned Officers should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as required by the Victim and Witness Assistance Policy.
- (i) The assigned Officers should include all available evidence indicating the likelihood of a hate crime in the relevant reports. All related reports should be clearly marked "Hate Crime."
- (j) The assigned officers will complete the Bias Crime and Bias Incident Supplemental Report Form and the officers should personally call or have the victim call the bias hotline (1-844-924-BIAS(2427)).

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Hate Crimes

339.4.1 DETECTIVE DIVISION RESPONSABILITY

If a case is assigned to the Detective Division, the assigned detective will be responsible for following up on the reported hate crime as follows:

- (a) Coordinate further investigation with the District Attorney and other law enforcement agencies, as appropriate
- (a) Maintain contact with the victim(s) and other involved individuals as needed
- (a) Maintain statistical data on suspected hate crimes and tracking as indicated

339.4.2 DETECTIVE DIVISION RESPONSIBILITY

If a case is assigned to the Detective Division, the assigned detective will be responsible for following up on the reported hate crime as follows:

- a. Coordinate further investigation with the District Attorney and other law enforcement agencies, as appropriate
- b. Maintain contact with the victim(s) and other involved individuals as needed
- c. Maintain statistical data on suspected hate crimes and tracking as indicated

339.5 TRAINING

All members of this Department should receive training on hate crime recognition and investigation.

339.6 POLICY

The Milwaukie Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the state and federal constitution and incorporated in state and federal law.

Standards of Conduct

341.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Milwaukee Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

341.2 DISCIPLINE POLICY

The continued employment of every employee of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any employee to meet the guidelines set forth in this policy, whether on-duty or off-duty, may be cause for disciplinary action.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his/her position.

341.2.1 DUE PROCESS

No disciplinary action shall be taken against an employee without just cause.

Prior to taking disciplinary action against an employee a supervisor shall:

- (a) Notify the employee in writing of the charges and the proposed disciplinary action; and
- (b) Provide the employee with an opportunity to respond to the charges at an informal hearing which may be recorded with the person or persons having authority to impose the proposed disciplinary action.

341.2.2 PROGRESSIVE DISCIPLINE

The administration of discipline is generally expected to be progressive in nature, with relatively minor violations of rules resulting in minor disciplinary action for first offenders. Repetitive similar violations, or more serious violations, would generally result in progressively more serious forms of discipline being administered.

The types of discipline that may be imposed include, but are not limited to, the following:

- (a) Counseling
- (b) Verbal Reprimand
- (c) Written Reprimand
- (d) Suspension Without Pay
- (e) Punitive Transfer

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(f) Reduction in Rank

(g) Termination

Nothing in this policy is intended to preclude the administration of more serious forms of discipline, including termination, for a first offense if the seriousness of the offense warrants it.

341.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

341.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

341.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.

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- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

341.3.3 DISCRIMINATION

- (a) Discriminate against any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition.

341.3.4 INTOXICANTS

- (a) Reporting for work or being at work following the use of intoxicants where such use may impair the employee's ability to perform assigned duties or where there is an immediate suspicion of ineffectiveness during public contact resulting from the use of intoxicants
- (b) Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance
- (c) Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties
- (d) Unauthorized possession, use of, or attempting to bring controlled substance or other illegal drug to any work site

341.3.5 PERFORMANCE

- (a) Unauthorized sleeping during on-duty time or assignments.
- (b) Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.
- (c) Refusal, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- (d) Concealing or attempting to conceal defective work, removing or destroying it without permission.
- (e) Disobedience or insubordination to constituted authorities or deliberate refusal to carry out any proper order from any supervisor or employee.
- (f) The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.

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- (g) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.
- (h) Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.
- (i) The falsification of records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.
- (j) Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person(s).
- (k) The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.
- (l) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).
- (m) Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. Employees shall familiarize themselves with and be responsible for compliance with each of the above and the Department shall make each available to the employees.
- (n) Work related dishonesty, including attempted or actual theft of department property, services or the property of others.
- (o) Criminal, dishonest, infamous or notoriously disgraceful conduct adversely affecting the employee/employer relationship (on or off-duty).
- (p) Failure to disclose material facts or the making of any false or misleading statement on any application, examination form or other official document, report or form.
- (q) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved Department practices or procedures.
- (r) Substantiated, active, continuing associating with or membership in "organized crime" and/or "criminal syndicates" with knowledge thereof, except as specifically directed and authorized by the Department.
- (s) Offer or acceptance of a bribe or gratuity.
- (t) Misappropriation or misuse of public funds
- (u) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.

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- (v) Unlawful gambling or unlawful betting on department premises or at any work site.
- (w) Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.
- (x) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency, except as expressly authorized by the Chief of Police.
- (y) Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.
- (z) Violating any misdemeanor or felony statute.
- (aa) Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.
- (ab) Any failure or refusal of an employee to properly perform the function and duties of an assigned position.
- (ac) False or misleading statements to a supervisor.

341.3.6 SAFETY

- (a) Failure to observe posted rules, signs, and written or oral safety instructions while on duty and/or within department facilities or to use required protective clothing or equipment.
- (b) Knowingly failing to report any on-the-job or work related accident or injury within 24 hours.
- (c) Substantiated employee record of unsafe or improper driving habits or actions in the course of employment.
- (d) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (e) Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.
- (f) Violating departmental safety standards or safe working practices.

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341.3.7 SECURITY

- (a) Unauthorized, intentional release, alteration or removal of designated confidential information, materials, data, forms or reports

341.3.8 SUPERVISION RESPONSIBILITY

- (a) Failure of a supervisor to take appropriate action to ensure that employees adhere to the policies and procedures of this department and the actions of all personnel comply with all laws.
- (b) Failure of a supervisor to timely report known misconduct of an employee to his or her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or other improper purpose.

341.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and Oregon constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

341.4.1 DUTY TO INTERVENE AND REPORT MISCONDUCT

An officer who observes another officer engaging in misconduct shall intervene to prevent or stop the conduct unless the officer cannot intervene safely. An officer who witnesses such conduct shall report the misconduct to a supervisor as soon as practicable, but not later than 72 hours after witnessing the misconduct (2020 Oregon Laws, c.5, § 2).

Failure to intervene or report the misconduct is grounds for discipline by the Department or suspension or revocation of the officers certification by the Department of Public Safety Standards and Training (2020 Oregon Laws, c.5, § 2).

Misconduct means (2020 Oregon Laws, c.5, § 2):

- (a) Unjustified or excessive force that is objectively unreasonable under the circumstances or in violation of the department policies related to the use of force
- (b) Sexual harassment or sexual misconduct
- (c) Discrimination against a person based on race, color, religion, sex, sexual orientation national origin, disability, or age

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- (d) A crime
- (e) A violation of the minimum standards for physical, emotional, intellectual, and moral fitness for public safety personnel under ORS 181A.410

341.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service.

341.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

341.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Milwaukie Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

341.6 EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) This response is not intended to be an adversarial or formal hearing.

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- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issue(s) of information raised in any subsequent materials.
- (f) Once the employee has completed his/her response or, if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall thereafter render a timely written decision to the employee imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall also inform the employee of the reason(s) for termination and the process to receive all remaining fringe and retirement benefits.
- (g) Once the Chief of Police has issued a written decision, the discipline shall become effective, upon concurrence of the City Manager.
- (h) This policy does not preclude nor ignore the right for grievance and the steps followed as outlined in the current collective bargaining agreement.

341.7 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file.

The tender of a retirement or resignation by itself shall not serve as grounds for the termination of pending discipline.

341.8 POST RESPONSE PROCEDURE

In situations resulting in the imposition of a suspension without pay, punitive transfer, demotion, termination of a non-probationary employee, the employee shall have the right to an evidentiary appeal of the imposition of discipline by the Chief of Police pursuant to the operative Collective Bargaining Agreement and personnel rules.

341.8.1 WRITTEN REPRIMANDS

Any employee wishing to formally appeal a written reprimand must submit a written request to his/her Division Commander within ten days of the receipt of the written reprimand. The Division

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Commander will then assign the appeal to an uninvolved supervisor at least one rank above the rank of the supervisor issuing the original reprimand.

Absent a written stipulation to the contrary, the employee will be provided with an evidentiary hearing before the assigned, uninvolved supervisor within 30 days. The decision of the assigned, uninvolved supervisor to sustain, modify, or dismiss the written reprimand shall be considered final.

341.9 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES

In the event that a probationary employee is terminated solely for unsatisfactory performance or the failure to meet department standards, the employee shall have no right to appeal and the following shall be considered:

- (a) Termination of a probationary employee for such failure to pass probation shall be so reflected in the employee's personnel file.
- (b) In the event that a probationary employee is disciplined or terminated for misconduct, the employee shall only be entitled to appeal the decision in the manner as set forth in the procedure as set forth in § 340.6. This appeal process may be held prior to or within a reasonable time after the imposition of discipline.
- (c) At all times during any investigation of allegations of misconduct involving a probationary officer, such officer shall be afforded all procedural rights set forth in Department policies.
- (d) A probationary employee's appeal of disciplinary action shall be limited to an opportunity for the employee to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure, however, should be construed to establish any sort of property interest in or right to the employee's continuation of employment.
- (e) The burden of proof for any probationary employee's appeal of disciplinary action shall rest with the employee and will require proof by a preponderance of the evidence.
- (f) In the event that a probationary employee meets his or her burden of proof in such a disciplinary appeal, the Department shall remove all reference to the underlying allegations of misconduct from the employee's personnel file.
- (g) In the event that a probationary employee fails to meet his or her burden of proof in such a disciplinary appeal, the employee shall have no further right to appeal beyond the Chief of Police.

Department Technology Use

343.1 PURPOSE AND SCOPE

This policy describes the use of department computers, software and systems.

343.1.1 PRIVACY POLICY

Any employee utilizing any computer, electronic storage device or media, internet service, phone service, information conduit, system or other wireless service provided by or funded by the Department expressly acknowledges and agrees that the use of such service, whether for business or personal use, shall remove any expectation of privacy the employee, sender and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication. The Department also expressly reserves the right to access and audit any and all communications (including content) sent, received and/or stored through the use of such service.

343.2 DEFINITIONS

The following definitions relate to terms used within this policy.

Computer System - Shall mean all computers (on-site and portable), hardware, software, and resources owned, leased, rented, or licensed by the Milwaukie Police Department, which are provided for official use by agency employees. This shall include all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the agency or agency funding.

Hardware - Shall include, but is not limited to, computers, computer terminals, network equipment, modems or any other tangible computer device generally understood to comprise hardware.

Software - Shall include, but is not limited to, all computer programs and applications including shareware. This does not include files created by the individual user.

Temporary File or **Permanent File** or **File** - Shall mean any electronic document, information or data residing or located, in whole or in part, whether temporarily or permanently on the system, including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports or messages.

343.3 SYSTEM INSPECTION OR REVIEW

An employee's supervisor has the express authority to inspect or review the system, any and all temporary or permanent files and related electronic systems or devices, and any contents thereof when such inspection or review is in the ordinary course of his/her supervisory duties, or based on cause.

When requested by an employee's supervisor, or during the course of regular duties requiring such information, a member(s) of the agency's information systems staff may extract, download, or otherwise obtain any and all temporary or permanent files residing in or located in or on the system.

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Reasons for inspection or review may include, but are not limited to system malfunctions, problems or general system failure, a lawsuit against the agency involving the employee or related to the employee's duties, an alleged or suspected violation of a department policy, or a need to perform or provide a service or information when the employee is unavailable.

343.4 AGENCY PROPERTY

All information, data, documents, communications, and other entries initiated on, sent to or from, or accessed on any department computer, or through the department computer system on any other computer, whether downloaded or transferred from the original department computer, shall remain the exclusive property of the Department and shall not be available for personal or non-departmental use without the expressed authorization of an employee's supervisor.

343.5 UNAUTHORIZED USE OF SOFTWARE

Employees shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement. To reduce the risk of computer virus or malicious software infection, employees shall not install any unlicensed or unauthorized software on any department computer.

Employees shall not install personal copies of any software onto any department computer. Any files or software that an employee finds necessary to upload onto a department computer or network shall be done so only with the approval of the department IT specialist and only after being properly scanned for malicious attachments.

No employee shall knowingly make, acquire or use unauthorized copies of computer software not licensed to the agency while on agency premises or on an agency computer system. Such unauthorized use of software exposes the agency and involved employees to severe civil and criminal penalties.

343.6 PROHIBITED AND INAPPROPRIATE USE

Access to department technology resources including Internet access provided by or through the Department shall be strictly limited to department-related business activities. Data stored on, or available through department systems shall only be accessed by authorized employees who are engaged in an active investigation, assisting in an active investigation, or who otherwise have a legitimate law enforcement or department business related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

An Internet site containing information that is not appropriate or applicable to departmental use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, chat rooms and similar or related web sites. Certain exceptions may be permitted with the prior approval of a supervisor as a function of an assignment.

Downloaded information shall be limited to messages, mail and data files which shall be subject to audit and review by the Department without notice. No copyrighted and/or unlicensed software program files may be downloaded.

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Department Technology Use

Employees shall report any unauthorized access to the system or suspected intrusion from outside sources (including the Internet) to a supervisor.

343.7 PROTECTION OF AGENCY SYSTEMS AND FILES

All employees have a duty to protect the system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the system.

Agency approved anti-virus software will be running on all computers that are connected to the Internet, in order to check downloaded files, e-mail and attachments for embedded viruses. Suspected problems with any security or anti-virus protections shall be promptly reported.

It is expressly prohibited for an employee to allow an unauthorized user to access the system at any time or for any reason.

343.7.1 NETWORK SECURITY

Network security protocols are established to ensure the integrity and security of the network systems. Employees shall not attempt to circumvent these protocols and shall observe the following:

- (a) Access to the network server and peripherals is locked and access is strictly limited to authorized personnel.
- (b) The network shall not be connected to any external network without a firewall in place.
- (c) No dial-up modem or work stations with dial-up modems will be connected to the network without additional authentication techniques beyond login name and password.

343.7.2 SYSTEM BACK-UP

Information Services personnel shall be responsible for establishing regularly scheduled network system back-up protocols. Retention of all system back-ups should be managed in a manner consistent with applicable provisions of the Oregon Revised Statutes and Oregon Administrative Rules.

Report Preparation

345.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training. Officers will receive training on report writing during their Field Training and Evaluation Program (FTEP) and may receive additional training as needed.

345.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

345.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

345.2.1 CRIMINAL ACTIVITY REPORTING

When an employee responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the employee is required to document the activity. The fact that a victim is not desirous of prosecution is not an exception to documenting a report. The following are examples of required documentation:

- (a) In every instance where a felony has occurred, the documentation shall take the form of a written crime report.
- (b) In every instance where a misdemeanor crime has occurred and the victim desires a report, the documentation shall take the form of a written crime report. If the victim does not desire a report, the incident will be recorded on the dispatcher's log.
- (c) In every case where any force is used against any person by police personnel.
- (d) All incidents involving domestic violence.
- (e) All arrests.

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Report Preparation

345.2.2 NON-CRIMINAL ACTIVITY

Following incidents shall be documented using the appropriate approved report:

- (a) Any time an officer points a firearm at any person
- (b) Any use of force against any person by a member of this department (see the Use of Force Policy)
- (c) Any firearm discharge (see the Firearms and Qualification Policy)
- (d) Any time a person is reported missing, regardless of jurisdiction (see the Missing Persons Reporting Policy)
- (e) Any found property or found evidence
- (f) Any traffic collisions above the minimum reporting level (see the Traffic Collision Reporting Policy)
- (g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (h) All protective custody detentions
- (i) Suspicious incidents that may place the public or others at risk
- (j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor
- (k) Cross reporting to DHS/APS 307 reports
- (l) Death investigations
- (m) Anytime a member of this department physically detains any person in handcuffs, even if no criminal charges are filed
- (n) Any K-9 deployment
- (o) Peace Officer holds
- (p) In response to Mental Health welfare checks where a referral to Clackamas County Mental Health would be appropriate
- (q) Animal related calls where an employee dispatches an animal, delivers an animal to animal control, or an injury is reported
- (r) Trespass warnings
- (s) Restraining order/No stalking citation services
- (t) Sex Offender Registrations
- (u) Courtesy reports for other agencies

345.2.3 INJURY OR DAMAGE BY CITY PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a City employee. Additionally, reports shall be taken involving damage to City property or City equipment.

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Report Preparation

345.2.4 MISCELLANEOUS INJURIES

Any injury that is reported to this department shall require a report when:

- (a) The injury is a result of drug overdose.
- (b) Attempted suicide.
- (c) The injury is major/serious, whereas death could result.
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event.
- (e) K-9 bite or any other injury sustained from K-9 deployment.

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

345.3 GENERAL POLICY OF EXPEDITIOUS REPORTING

In general, all officers and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances. Officers are responsible for tracking and managing their reports.

345.3.1 REPORT COMPLETION

All reports should be completed by the end of the employee's shift. Any reports not completed by the end of the shift must have supervisor's approval. At a minimum, any incomplete report must include case/incident number, location of incident, classification of incident, and involved persons. Reports that must be completed by the end of shift include arrest custodies, initial reports on potential Measure 11 offenses, missing persons, runaway juveniles, and stolen vehicles. A supervisor may authorize overtime so that the employee has the reports completed.

345.3.2 SUPPLEMENTAL/FOLLOW-UP REPORTS

All officers are responsible for completing supplemental and follow-up reports in a timely manner. Supervisors may instruct officers to have supplemental reports completed before the end of shift, depending on circumstances.

345.4 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should notify the employee. It shall be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner.

345.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records may be corrected or modified by the authoring employee only with the knowledge and authorization of the reviewing supervisor.

News Media Relations

347.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

347.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police, however, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Captains, Patrol Sergeants and designated Public Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

347.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated department media representative.
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.
- (c) 1. Members of this department should not make any comment(s) to the media regarding any law enforcement incident without prior approval of the Chief of Police, absent comments to secure a scene.

347.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions:

- (a) The media representative will produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
 1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the department Public Information Officer or other designated spokesperson.
 2. Whenever the presence of media or other aircraft poses a threat to public or officer safety or significantly hampers incident operations, the field supervisor

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should consider requesting a Temporary Flight Restriction (TFR). All requests for TFRs should be routed through the Patrol Sergeant. The TFR should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

- (c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee.
- (d) Media interviews with individuals who are in custody shall not be permitted without the approval of the Chief of Police and the express consent of the person in custody.
- (e) Media representatives will not be allowed to enter the inner perimeter of a tactical situation or a crime scene while an incident or investigation is in progress.
- (f) A tactical operation should be handled in the same manner as a crime scene, except that the news media should be permitted within the outer perimeter of the scene, subject to any restrictions as set forth by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Public Information Officer.

347.3.1 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

347.4 INFORMATION SUBJECT TO RELEASE

The Department will maintain a daily information log of significant law enforcement activities that shall be made available, upon request, to media representatives through the Patrol Sergeant. This log will generally contain the following information:

- (a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
- (b) The date, time, location, case number, name, birth date and charges for each person arrested by this department unless the release of such information would endanger

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the safety of any individual or jeopardize the successful completion of any ongoing investigation.

- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law.

Information pertaining to a juvenile arrestee, victim, or witness shall only be released as articulated in the Records Maintenance and Release Policy.

Identifying information concerning victims of sex crimes shall not be included in the log.

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Medical Examiner's Office.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department media representative, the custodian of records, or if unavailable, to the Patrol Sergeant. Such requests will generally be processed in accordance with the provisions of this policy.

347.4.1 SCOPE OF INFORMATION SUBJECT TO RELEASE

The release and inspection of public records is controlled by the Records Maintenance and Release Policy and ORS 192, and other applicable statutes (see also 181A830)

The record of an arrest or the report of a crime shall be disclosed unless there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Once the clear need to delay release is no longer present, the following information must be released.

For purposes of this subsection, the record of an arrest or the report of a crime includes:

- (a) The arrested person's name, age, residence, employment, marital status and similar biographical information.
- (b) The offense with which the arrested person is charged.
- (c) The conditions of release.
- (d) The identity and biological information concerning both the complaining party and the victim.
- (e) The identity of the investigating and arresting agency and the length of the investigation.
- (f) The circumstances of the arrest including time, place, resistance, pursuit and weapons used.
- (g) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

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347.4.2 RESTRICTED INFORMATION

It will be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

- (a) Restricted information is outlined in detail in the Records Maintenance and Release and the Protected Information policies.
- (b) Any specific operational or contingency plans in connection with an anticipated threat to individual or public safety for deployment and use of personnel and equipment prepared or used by a public body, if public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a law enforcement activity (ORS 192.501(18)).
- (c) Criminal history information.
- (d) Information pertaining to pending litigation involving this department.
- (e) Information obtained in confidence.
- (f) Any information that is otherwise privileged or restricted under state or federal law.
- (g) Confidential peace officer personnel information (see the Personnel Records Policy).
 - 1. The identities of officers involved in shootings or other major incidents may only be released to the media pursuant to consent of the involved officer or upon a formal request filed and processed in accordance with the Public Records Act (ORS 192.502).
- (h) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
- (i) Investigative information other than as listed above, without the expressed authorization of the Administrative Captain, after consulting with the Detective Sergeant in charge of an investigation.

Court Appearance and Subpoenas

349.1 PURPOSE AND SCOPE

This procedure has been established in compliance with Oregon Revised Statutes 136.595 to provide for the acceptance of subpoenas and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

349.1.1 DEFINITIONS

On-Call - When an employee has appeared in court, or is at the time on-duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone or pager if called back.

Standby - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone or pager so that he or she may be directed to appear in court within a reasonable amount of time.

Trailing Status - When an employee remains on standby status for additional court sessions until notified otherwise.

Mandatory Appearance - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

349.2 COURT SUBPOENAS

Employees who receive subpoenas related to their employment with this department are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed, or properly notified. This policy applies to civil and criminal subpoenas. Employees are expected to cooperate with the prosecution to ensure the successful conclusion of a case.

349.2.1 SERVICE OF SUBPOENA

Generally, a subpoena is served by delivering a copy to the witness personally. Proof of service is made in the same manner as in the service of a summons.

- (a) In accordance with ORS 136.595(2) and ORCP 55, this department shall accept subpoenas on behalf of currently employed peace officers who are within the state at the time of service, provided the following conditions are met:
 1. The peace officer's attendance at trial is related to work he/she performed in the course of employment as a peace officer.
 2. The subpoena is delivered to the Records Supervisor or to the Patrol Sergeant at least 10 days prior to the appearance date shown on the subpoena.
- (b) The subpoena clerk shall make a good faith effort to notify the subpoenaed employee of the date, time and location of the court appearance. If the employee cannot be

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notified, the subpoena clerk will contact the court and advise them of the inability to contact the employee.

349.2.2 VALID SUBPOENAS

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

349.2.3 ACCEPTANCE OF SUBPOENA

- (a) Only the employee named in a subpoena, a police records specialist, the on-duty supervisor or the department subpoena coordinator shall be authorized to accept service of a subpoena. Any authorized employee accepting a subpoena shall immediately provide a copy of the subpoena to the department subpoena coordinator. The subpoena coordinator shall maintain a chronological log of all department subpoenas and provide a copy of the subpoena to each involved employee.
- (b) Any supervisor or other authorized individual accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.
- (c) In the event the aforementioned personnel are unavailable, a police records specialist shall take the subpoena and place it in the subpoena coordinator's mailbox for acceptance.

349.2.4 COURT STANDBY

To facilitate court standby agreements with the courts, employees are required to provide and maintain current information on their address and phone number with the Department. Employees are required to notify the Department within 24-hours of any change in residence address or primary phone number, and to provide accurate and reasonably reliable means or methods for contact.

If an employee on standby is not at their residence, is unable to answer the documented phone number, or changes his/her location during the day, the employee shall notify the subpoena clerk of how he/she can be reached by telephone. Employees are required to remain on standby each day the case is trailing. In a criminal case the Deputy District Attorney handling the case is the only person authorized to excuse an employee from standby status.

349.2.5 OFF-DUTY RELATED SUBPOENAS

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with the Milwaukie Police Department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

349.2.6 FAILURE TO APPEAR OR REFUSAL

Any employee who fails to accept or comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

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349.3 CIVIL SUBPOENAS

The Department will compensate employees who appear in their official capacity on civil matters arising out of the employee's official duties as directed by the current Memorandum of Understanding. In such situations, the Department will also reimburse any officer for reasonable and necessary travel expenses.

The Department will receive reimbursement for the officer's compensation through the civil attorney of record who subpoenaed the officer.

349.3.1 PROCEDURE

To ensure that the officer is able to appear when required, that the officer is compensated for such appearance, and to protect the Department's right to reimbursement, officers shall follow the established procedures for the receipt of a civil subpoena.

349.3.2 CIVIL SUBPOENA ACCEPTANCE

Subpoenas shall not be accepted in a civil action in which the officer or Department is not a party without properly posted fees pursuant to Oregon Revised Code of Procedure 55 D(1).

349.3.3 PARTY MUST DEPOSIT FUNDS

The party in the civil action who seeks to subpoena an officer must deposit the statutory witness fees and mileage for each appearance before such subpoena will be accepted. Parties seeking to have the officer make multiple appearances must make an additional deposit in advance.

349.4 OVERTIME APPEARANCES

If the officer appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Collective Bargaining Agreement.

The overtime on such appearance will be paid from the time the officer left his/her residence until he/she returned.

349.5 COURTROOM PROTOCOL

Employees must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.

349.5.1 PREPARATION FOR TESTIMONY

Before the date of testifying, the subpoenaed officer shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

349.5.2 COURTROOM ATTIRE

Employees shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks.

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349.6 COURTHOUSE DECORUM

Employees shall observe all rules of the court in which they are appearing, refrain from smoking or chewing gum in the courtroom, and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

349.7 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE

Any member of this department who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of Oregon, any county, any city, or any of their officers and employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief of Police, District Attorney's Office in criminal cases, County Counsel or City Attorney, as may be indicated by the case.

This includes, but is not limited to the following situations:

- (a) Providing testimony or information for the defense in any criminal trial or proceeding.
- (b) Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees.
- (c) Providing testimony or information on behalf of or at the request of any party other than any county, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matter.

Reserve Officers

351.1 PURPOSE AND SCOPE

The Milwaukee Police Department Reserve Unit was established to supplement and assist regular sworn police officers in their duties. This unit provides professional, sworn volunteer reserve officers who can augment regular staffing levels.

351.2 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS

The Milwaukee Police Department shall endeavor to recruit and appoint to the Reserve Unit only those applicants who meet the high ethical, moral and professional standards set forth by this department. The minimum criteria for selection and appointment of reserve officers shall be the same as is required of regular full-time officers.

351.2.1 PROCEDURE

All applicants shall be required to meet and pass the same pre-employment procedures as regular police officers before appointment.

Upon appointment to the Police Reserve Unit, an applicant must have completed, or be in the process of completing, a basic reserve academy within 18 months of the date of appointment.

351.2.2 APPOINTMENT

Applicants who are selected for appointment to the Police Reserve Unit shall, on the recommendation of the Chief of Police, be sworn in by the Chief of Police and take an oath to observe and obey all of the laws of the land and to carry out their duties to the best of their ability.

351.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS

Compensation for reserve officers is provided as follows:

All reserve officer appointees are issued two sets of uniforms and all designated attire and safety equipment. All property issued to the reserve officer shall be returned to the Department upon termination or resignation.

351.2.4 EMPLOYEES WORKING AS RESERVE OFFICERS

Qualified employees of this department, when authorized, may also serve as reserve officers. However, the Department must not utilize the services of a reserve or volunteer in such a way that it would violate employment laws or labor agreements (e.g. a detention officer working as a reserve officer for reduced or no pay). Therefore, the Reserve Coordinator should consult the Department of Human Resources prior to an employee serving in a reserve or volunteer capacity (29 CFR 553.30).

351.3 DUTIES OF RESERVE OFFICERS

Reserve officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of reserve officers will usually be to augment the

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Operations Division. Reserve officers may be assigned to other areas within the Department as needed. Reserve officers are required to work a minimum of 20 hours per month.

351.3.1 POLICY COMPLIANCE

Police reserve officers shall be required to adhere to all departmental policies and procedures. A copy of the policies and procedures will be made available to each reserve officer upon appointment and he/she shall become thoroughly familiar with these policies.

Whenever a rule, regulation, or guideline in this manual refers to a sworn regular full-time officer, it shall also apply to a sworn reserve officer unless by its nature it is inapplicable.

351.3.2 RESERVE OFFICER ASSIGNMENTS

All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

351.3.3 RESERVE COORDINATOR

The Chief of Police shall delegate the responsibility for administering the Reserve Officer Program to a Reserve Coordinator.

The Reserve Coordinator shall have the responsibility of, but not be limited to the following:

- (a) Assignment of reserve personnel.
- (b) Conducting reserve meetings.
- (c) Establishing and maintaining a reserve call-out roster.
- (d) Maintaining and ensuring performance evaluations are completed.
- (e) Monitoring individual reserve officer performance.
- (f) Monitoring overall Reserve Program.
- (g) Maintaining liaison with other agency Reserve Coordinators.

351.4 FIELD TRAINING

The field training program shall consist of the completion of three training phases to be completed under the supervision of a Primary Training Officer, with the assistance of other training officers, as assigned by the department. During the field training period the reserve officer must complete the standard DPSST Field Training Manual as described in the Field Training Manual section of this policy.

351.4.1 TRAINING OFFICERS

Officers of this department, who demonstrate a desire and ability to train reserve officers, may train the reserves during Phase II, subject to Patrol Sergeant approval.

351.4.2 PRIMARY TRAINING OFFICER

Upon completion of the Academy, reserve officers will be assigned to a primary training officer. The primary training officer will be selected from members of the Field Training Officer (FTO)

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Committee. The reserve officer will be assigned to work with his/her primary training officer during the first 160 hours of training. This time shall be known as the Primary Training Phase.

351.4.3 FIELD TRAINING MANUAL

Each new reserve officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Milwaukie Police Department. Each section of the manual must be signed-off by both the Primary Training Officer and any other officer observing the performance. The completed manual will be submitted to the department Administrative Captain and it shall become part of the reserve officer's training file. The reserve officer shall become knowledgeable of the subject matter as outlined and proficient with those skills as set forth in the manual.

351.4.4 COMPLETION OF THE PRIMARY TRAINING PHASE

At the completion of the Primary Training Phase, (Phase I) the primary training officer will meet with the Reserve Coordinator. The purpose of this meeting is to discuss the progress of the reserve officer in training.

If the reserve officer has progressed satisfactorily, he/she will then proceed to Phase II of the training. If he/she has not progressed satisfactorily, the Reserve Coordinator will determine the appropriate action to be taken.

351.4.5 SECONDARY TRAINING PHASE

The Secondary Training Phase (Phase II) shall consist of 100 hours of additional on-duty training. The reserve officer will no longer be required to ride with his/her primary training officer. The reserve officer may now ride with any officer designated by the Patrol Sergeant.

During Phase II of training, as with Phase I, the reserve officer's performance will be closely monitored. In addition, rapid progress should continue towards the completion of the Officer's Field Training Manual. At the completion of Phase II of training, the reserve officer will return to his/her primary training officer for Phase III of the training.

351.4.6 THIRD TRAINING PHASE

Phase III of training shall consist of 24 hours of additional on-duty training. For this training phase, the reserve officer will return to his/her original primary training officer. During this phase, the training officer will evaluate the reserve officer for suitability to graduate from the formal training program.

At the completion of Phase III training, the primary training officer will meet with the Reserve Coordinator. Based upon the reserve officer's evaluations, plus input from the primary training officer, the Reserve Coordinator shall decide if the reserve officer has satisfactorily completed his/her formal training. If the reserve officer has progressed satisfactorily, he/she will then graduate from the formal training process. If his/her progress is not satisfactory, the Reserve Coordinator will decide upon the appropriate action to be taken.

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351.4.7 COMPLETION OF THE FORMAL TRAINING PROCESS

When a reserve officer has satisfactorily completed all three phases of formal training, he/she will have had a minimum of 284 hours of on-duty training. He/she will no longer be required to ride with a reserve training officer. The reserve officer may now be assigned to ride with any officer for the remaining 200-hour requirement for a total of 484 hours before being considered for relief of immediate supervision.

351.5 SUPERVISION OF RESERVE OFFICERS

Level II reserve officer should be under the immediate supervision of a regular sworn officer. Although a reserve officer may have attained the status of a Level II reserve officer, these provisions shall continue to apply unless special authorization is received which relieves the immediate supervision requirement.

351.5.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level II may, with prior authorization of the Reserve Coordinator and on approval of the Captain, be relieved of the "immediate supervision" requirement. Level II reserve officers may function under this authorization only for the duration of the assignment or purpose for which the authorization was granted.

In the absence of the Reserve Coordinator and the Captain, the Patrol Sergeant may assign a certified Level II reserve officer to function as above for specific purposes and duration.

351.5.2 RESERVE OFFICER MEETINGS

All reserve officer meetings will be scheduled and conducted by the Reserve Coordinator. All reserve officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the Reserve Coordinator.

351.5.3 IDENTIFICATION OF RESERVE OFFICERS

All reserve officers will be issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full-time officer. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

351.5.4 UNIFORM

Reserve officers shall conform to all uniform regulation and appearance standards of this department.

351.5.5 INVESTIGATIONS AND COMPLAINTS

If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, at the discretion of the Operations Captain.

Reserve officers are considered at-will employees.

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Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

351.5.6 RESERVE OFFICER EVALUATIONS

While in training reserve officers will be continuously evaluated using standardized daily and weekly observation reports. The reserve will be considered a trainee until all of the training phases have been completed. Reserves having completed their field training will be evaluated annually using performance dimensions applicable to the duties and authorities granted to that reserve officer.

351.6 FIREARMS REQUIREMENTS

Reserve officer have peace officer powers during his/her assigned tour of duty.

351.6.1 CARRYING WEAPON ON DUTY

It is the policy of this department to allow level II or III reserve officers to carry firearms only while on duty or to and from duty.

351.6.2 IN-SERVICE TRAINING

Reserve officers are encouraged to attend all in-service training offered to regular officers. Reserve officers are required to attend classes designated as mandatory either at one of the regular in-service sessions or one scheduled specifically for reserves.

351.6.3 CONCEALED FIREARMS PROHIBITED

No reserve officer will be permitted to carry a concealed firearm while in an off-duty capacity, other than to and from work, except those reserve officers who possess a valid CCW permit. An instance may arise where a reserve officer is assigned to a plainclothes detail for his/her assigned tour of duty. Under these circumstances, the reserve officer may be permitted to carry a weapon more suited to the assignment with the knowledge and approval of the supervisor in charge of the detail.

Any reserve officer who is permitted to carry a firearm other than the assigned duty weapon may do so only after verifying that the weapon conforms to departmental standards. The weapon must be registered by the reserve officer and be inspected and certified as fit for service by a departmental armorer.

Before being allowed to carry any optional firearm during an assigned tour of duty, the reserve officer shall have demonstrated his/her proficiency with said weapon.

351.6.4 RESERVE OFFICER FIREARM TRAINING

All reserve officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall comply with all areas of the firearms training section of the Policy Manual.

351.7 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL

The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.

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351.8 RESERVE LEVELS

Reserve officers become eligible to perform at different levels in the organization based on their training and experience. All reserve officers begin at Level I. The training and experience required for each level and the types of duties each is eligible to perform are listed below:

- (a) Level I - Recruit Reserve Officer. Level I Reserves are newly appointed and are beginning their training. They do not wear a police uniform and are not permitted to carry weapons. Level I Reserves may ride with regular officers on patrol wearing civilian clothes. They perform no law enforcement functions
- (b) Level II " Reserve Officer. Level II Reserves have successfully completed the Reserve Academy including qualification with duty weapons, defensive tactics, use of force, criminal law and traffic code. Level II reserves may perform their duties in uniform, carry weapons and perform law enforcement functions under the direct supervision of a Training Officer.
- (c) Level III " Reserve Officer. Level III Reserves have successfully completed the Reserve Academy, all three phases of the Reserve Field Training Program for a total of 484 hours of Field Training. Level III Reserves are authorized to perform law enforcement functions without direct supervision and to operate in a two person patrol assignment.

Mutual Aid and Outside Agency Assistance

353.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to officers in the request of or answering the request for assistance involving another law enforcement agency.

It is the policy of this department to provide assistance whenever possible, consistent with the applicable laws of arrest and detention policies of this department, when another law enforcement agency requests assistance with an arrest or detention of any person. This department may also request an outside agency to provide assistance.

353.1.1 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to the Patrol Sergeant's office for approval. When an authorized employee of an outside agency requests the assistance of this department in taking a person into custody, available officers shall respond and assist in making a lawful arrest. If an officer receives a request in the field for assistance, that officer shall notify a supervisor. Arrestees may be temporarily detained by our agency until arrangements for transportation are made by the outside agency. Only in exceptional circumstances will this department provide transportation of arrestees to other county facilities.

When such assistance is rendered, a case number will be issued to report action taken by Milwaukie Police Department Personnel. Probation violators temporarily detained by this department will not ordinarily be booked at this department.

353.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions. The handling officer or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting officer should secure radio frequencies for use by all involved agencies so that communication can be coordinated as needed. If necessary, reasonable effort should be taken to provide radio equipment capable of communicating on the assigned frequency to any personnel who do not have compatible radios.

Registered Offender Information

357.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Milwaukie Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the Department will disseminate information and respond to public inquiries for information about registered sex offenders.

357.2 SEX OFFENDER CATEGORIES

The Oregon Revised Statutes delineates three categories of sex offenders:

- (a) Sex offenders who are required to register
- (b) Predatory sex offenders
- (c) Juvenile sex offenders

357.2.1 SEX OFFENDERS REQUIRED TO REGISTER

Sex Offenders who have been convicted of committing or attempting to commit, or been found guilty except for insanity, of a sex crime as defined in ORS 181.594(5) are required to report and be registered as a sex offender under ORS 181.595-181.597 (Oregon Administrative Rules 257-070-0015(2)).

357.2.2 PREDATORY SEX OFFENDERS

Predatory sex offenders are those persons who have been convicted of committing or attempting to commit, or been found guilty except for insanity, of a sex crime as defined in ORS 181.594(5)(a) to (d), and exhibit characteristics showing a tendency to victimize or injure others. In determining whether a person is a predatory sex offender an agency shall use a sex offender risk assessment scale approved by the Department of Corrections or a Community Correction Agency. Predatory sex offenders are also required to register.

357.2.3 JUVENILE SEX OFFENDERS

Juvenile sex offenders are those persons who are under the supervision of the Oregon Youth Authority or a county juvenile department for having committed an act that if committed by an adult would constitute a sex crime, and who are required to report and register under Oregon Revised Statutes 181.595, 181.596 or 181.597.

357.3 REGISTRATION PROCEDURES

Sex offenders in any of the above categories are required to register at one of several criminal justice locations including any law enforcement agency, community corrections department or juvenile department. Registration information is entered into the offender's Law Enforcement Data System (LEDS) sex offender record. Sex offenders must report in person to one of those locations:

- (a) Within 10 days of being released from the courts or from an institution.
- (b) Annually, within 10 days of their birthday.

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- (c) Within 10 days of a change of residence.

357.3.1 CONTENTS OF REGISTRATION

Registrants shall (ORS 163A.010; OAR 257-070-0110):

- (a) Provide the information to complete the sex offender registration form and sign it.
- (b) Submit to photographs, including photographs of scars, marks or tattoos, when initially reporting and each time the registrant reports annually.
- (c) Submit to fingerprinting, if required.

357.3.2 REGISTRATION INSTRUCTIONS

The Oregon State Police (OSP) provides on-line registration which officers will use to register sex offenders. The procedure includes the following elements:

- (a) Satisfactorily identify registrant.
- (b) Ask for proof of physical address.
- (c) Obtain photocopy of ID.
- (d) Check for LEDS and National Crime Information Center (NCIC) wants and obtain the system identification (SID) number.
- (e) If no SID number, the registrant needs to be referred to the OSP.
- (f) Complete the registration form and attach a photo of the offender to the OSP copy.
- (g) The offender and a witness must sign the form.
- (h) Mail the completed packet to OSP within three working days.

357.3.3 FAILURE TO REGISTER

Failure to register as required by ORS 181.595 to ORS 181.597 is a Class A Misdemeanor unless one of the following exists, in which case the offense is a Class C Felony:

- (a) The offender fails to make the initial report with the appropriate law enforcement agency or official, or
- (b) The crime for which the offender is required to register was a felony and the offender fails to report a change of address, employment or school enrollment

In order to arrest for failure to register as a sex offender it must be proved that the offender knew registration was required and he/she failed to do so within the prescribed time limits. The LEDS ESX record may reflect knowledge by virtue of the offender having signed an SOR contract (Signed Form/Y), or the offender may admit knowledge of the registration requirement.

Failure to register also includes failure to fully complete the form, refusal to sign the form, failure to allow a photograph to be taken within the prescribed time limits or failure to provide complete and accurate information during registration.

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357.4 PUBLIC INQUIRIES

Oregon Law authorizes a police agency to provide information about sex offenders to the public pursuant to a request. The nature of the information that can be released and the method of release depends on several factors as specified below. The name of the victim is not authorized for release in any of these circumstances (ORS 181.592(2),(3)).

357.4.1 OFFENDERS WHO ARE CURRENTLY UNDER SUPERVISION

If an offender is currently under supervision for the first time for a conviction requiring reporting as a sex offender, or if the sex offender is a juvenile under the supervision of the Oregon Youth Authority or a county juvenile department, the information that can be released to the public by a law enforcement agency is limited to the following:

(a) Adult offenders

1. Name.
2. Date of birth.
3. City and ZIP code of residence.
4. Physical description.
5. Photograph.
6. The name and phone number of a contact person at the supervising agency.
7. The name of institutions of higher education that the sex offender attends or at which the sex offender works or carries on a vocation.

(b) Juvenile Offenders

1. Name.
2. Year of birth.
3. City and ZIP code of residence.
4. The name and phone number of a contact person at the supervising agency.
5. The name of the institution of higher education that the sex offender attends or at which the sex offender works or carries on a vocation.

The supervising agency may release additional information to the public as appropriate.

357.4.2 OFFENDERS WHO ARE OFF SUPERVISION

If the initial period of supervision referred to in Policy Manual §356.41 has expired, a law enforcement agency may release any information that may be necessary to protect the public concerning sex offenders who are required to register. Such release may refer to offenders who reside in a specific area, or a specific sex offender. Information that may be appropriate for release includes the following:

- Name

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- Date of birth
- Address
- Physical description
- Vehicle description
- Photograph
- Crime of conviction

357.5 DISSEMINATION OF PUBLIC INFORMATION

Employees will not unilaterally make a public notification advising the community of a particular registrant's presence in the community. Employees who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on registrants should be provided the Sex Offender Inquiry System (<http://sexoffenders.oregon.gov/>), or the Milwaukie Police Department's website.

The Records Supervisor shall release local registered offender information to residents in accordance with state law and in compliance with Oregon Public Records Law requests (ORS 163A.215; ORS 163A.225; ORS 192.311 to ORS 192.499).

357.6 DEPARTMENTAL DISSEMINATION OF INFORMATION

Whenever this department determines that it is necessary to provide information to the public regarding a person required to register as a sex offender pursuant to Oregon Revised Statutes 181.585 to ORS 181.605, such information may only be released by means determined by the Chief of Police to be appropriate.

Information regarding a registered sex offender shall not be released to the public without prior approval from the Chief of Police except under exigent circumstances, and in such cases a supervisor shall be notified of the information release as soon thereafter as is practical.

Included with all public disclosures of information about any registered sex offender will be a statement that the purpose of the release is to allow members of the public to protect themselves and their children from sex offenders.

Major Incident Notification

359.1 PURPOSE AND SCOPE

Incidents that are of significant nature and that fall into listed criteria require notification to certain members of this department. It is critical that staff members are informed of certain incidents in order to apprise their superiors and properly address inquiries from members of the press.

359.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and the affected Captain. The following list of incident types is provided as a guide for notification and is not intended to be all-inclusive:

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting on- or off-duty (see the Officer-Involved Shooting Policy for special notifications)
- Significant injury or death to an employee on- or off-duty
- Death of a prominent official
- Arrest of department employee or prominent official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths
- Any other event likely to attract media attention

359.4 PATROL SERGEANT RESPONSIBILITY

The on-duty sergeant is responsible for making the appropriate notifications. The on-duty sergeant shall make reasonable attempts to obtain as much information on the incident as possible before notification. The on-duty sergeant shall attempt to make the notifications as soon as practical.

359.4.1 COMMAND STAFF NOTIFICATION

In the event an incident occurs described in Policy Manual § 358.2, the Operations Captain or in his absence, the Administration Captain, will be notified. The Captain will then notify the Chief of Police. In absence of both Captains, the on duty sergeant will directly notify the Chief of Police.

359.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the on duty sergeant will contact the on-call detective. The on-call detective will then notify the Detective Sergeant.

359.4.3 TRAFFIC FATALITY OR MAJOR INJURY NOTIFICATION

In the event of a traffic fatality or major injury, the on duty sergeant shall request assistance from the Clackamas County Craft Team or in their absence, another regional local Traffic Crash

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Reconstruction Team. In addition, the on duty sergeant shall notify command staff as described in Policy Manual 358.3.1.

359.4.4 PUBLIC INFORMATION OFFICER (PIO)

The Public Information Officer shall be called after members of staff have been notified that it appears the media may have a significant interest in the incident.

Death Investigation

361.1 PURPOSE AND SCOPE

The investigations of cases involving death include those ranging from natural cause to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations cannot be emphasized enough.

361.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Paramedics shall be called in all suspected death cases unless the death is obvious (decapitated, decomposed, etc.). Officers are not authorized to pronounce death. A supervisor shall be notified in all death investigations.

361.2.1 MEDICAL EXAMINER NOTIFICATION

Oregon Revised Statutes 146.090 requires that a medical examiner must be notified in the following circumstances. Any death:

- (a) Apparently homicidal, suicidal or occurring under suspicious or unknown circumstances
- (b) Resulting from the unlawful use of controlled substances or the use or abuse of chemicals or toxic agents
- (c) Occurring while incarcerated in any jail, correction facility, or in police custody
- (d) Apparently accidental or following an injury
- (e) By disease, injury or toxic agent during or arising from employment
- (f) While not under the care of a physician during the period immediately previous to death
- (g) Related to disease which might constitute a threat to the public health
- (h) In which a human body apparently has been disposed of in a manner that is offensive to the generally accepted standards of the community

The body, effects of the deceased, and any instruments or weapons related to the death shall not be disturbed or moved from the position or place of death without permission of the Medical Examiner or Deputy Medical Examiner, and the District Attorney.

A Medical Examiner, Deputy Medical Examiner, or District Attorney, in conjunction with the Milwaukie Police Department and/or the county Major Crime Team, shall take custody of, or exercise control over the body, the effects of the deceased and any weapons, instruments, vehicles, buildings or premises which the medical examiner has reason to believe were involved in the death, in order to preserve evidence related to the cause and manner of death.

The members of the Milwaukie Police Department will work cooperatively with both the Medical Examiner's Office and the District Attorney in all death investigations.

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361.2.2 SEARCHING DEAD BODIES

Whenever possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain at the scene with the officer pending the arrival of the Medical Examiner. The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased, a receipt shall be obtained. This receipt shall be attached to the death report.

Officers must make a reasonable search of an individual who reasonably appears to be dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a donor refusal. If a document of gift or a refusal to make an anatomical gift is located and the individual or deceased individual is taken to a hospital, the officer must alert the hospital staff to the documentation and forward it to the hospital (ORS 97.970). Officers must consider the integrity of the scene and evidence collection issues when deciding whether a search is reasonable.

361.2.3 DEATH NOTIFICATION

When practical, and if not handled by the Medical Examiner's Office, notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Medical Examiner may be requested to make the notification. The Medical Examiner needs to know if notification has been made. Assigned detectives may need to talk to the next-of-kin.

Upon identifying the body, investigators shall attempt to locate the next of kin or responsible friends to obtain the designation of a funeral home to which the deceased is to be taken.

361.2.4 UNIDENTIFIED DEAD BODIES

If the identity of a dead body cannot be established after the Medical Examiner arrives, the Medical Examiner's office will issue a "John Doe" or "Jane Doe" number for the report.

361.2.5 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form.

361.2.6 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Investigations Division shall be notified to determine the possible need for a detective to respond to the scene for further immediate investigation.

Identity Theft

363.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. A person commits the crime of identity theft if the person, with the intent to deceive or to defraud, obtains, possesses, transfers, creates, utters or converts to the person own use the personal identification of another person (Oregon Revised Statutes 165.800). This policy is intended to provide guidelines for the reporting and investigation of such crimes.

363.2 REPORTING

- (a) In an effort to maintain uniformity in reporting, officers presented with the crime of "identity theft" shall initiate a report for victims residing within the jurisdiction of this department. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:
 1. For any victim not residing within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.
- (b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in this jurisdiction).
- (c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).
- (d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers.
- (e) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

Private Persons Arrests

365.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Oregon Revised Statutes 133.220(3).

365.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Officers should use sound discretion in determining whether or not to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

365.3 ARRESTS BY PRIVATE PERSONS

A private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime. A person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer (Oregon Revised Statutes 133.225).

In making an arrest, a private person may use the amount of force they reasonable believe is necessary to make the arrest or to prevent the arrested person's escape.

365.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether or not there is probable cause to believe that such an arrest would be lawful.

- (a) Should any officer determine that there is no probable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.
 1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual. The officer must include the basis of such a determination in a related report.
 2. Absent probable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should

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advise the parties that no arrest will be made and that the circumstances will be documented in a related report.

- (b) Whenever an officer determines that there is probable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:
1. Take the individual into physical custody for booking.
 2. Release the individual subsequent to the issuance of a citation for the individual to appear in the appropriate court.

365.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest officers shall complete a narrative report regarding the circumstances and disposition of the incident.

Limited English Proficiency Services

369.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

369.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

Interpret or interpretation - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

Limited English proficient (LEP) - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

Qualified bilingual member - A member of the Milwaukie Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

Translate or translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

369.2 POLICY

It is the policy of the Milwaukie Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

369.3 TYPES OF LEP ASSISTANCE AVAILABLE

Depending on the balance of the above four factors, this department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services, where available. LEP individuals may elect to accept interpreter services offered by the Department at no cost or choose to provide their own interpreter services at their own expense. Department personnel should document in any related report whether the LEP individual elected to

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use interpreter services provided by the Department or some other source. Department provided interpreter services may include, but are not limited to the below described assistance methods .

369.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

369.5 TYPES OF LEP ASSISTANCE AVAILABLE

Milwaukie Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

369.6 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

369.7 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

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369.7.1 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

369.8 AUTHORIZED INTERPRETERS

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

369.8.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.

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- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

369.8.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

369.9 CONTACT AND REPORTING

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

369.10 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Milwaukie Police Department will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

369.10.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP

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individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in LOCOM, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

369.11 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

369.12 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter

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- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

369.13 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

369.13.1 INTERPRETER REQUIRED IN ARRESTS

An officer who arrests a person who cannot readily understand or communicate the English language shall, prior to any interrogation or the taking of a statement, make available a qualified interpreter to assist throughout the interrogation or taking of the statement. Fees and expenses of the interpreter will be paid as specified by Oregon law (ORS 133.515).

369.14 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

369.15 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

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369.16 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

Hearing Impaired/Disabled Communications

371.1 PURPOSE AND SCOPE

Individuals who suffer from deafness, hearing impairment, blindness, impaired vision, mental or other disabilities may encounter difficulties in gaining meaningful access to, or an understanding of important rights, obligations and services. In accordance with the Americans with Disabilities Act (ADA), it is therefore the policy of this department to take all reasonable steps to accommodate such individuals in any law enforcement contact.

371.2 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, employees of this department should consider all information reasonably available to them when determining how to communicate with an individual suffering from any disability. These factors may include, but are not limited to:

- (a) The extent to which a disability is obvious or otherwise made known to the involved employee. Impaired or disabled individuals may be reluctant to acknowledge their condition and may even feign a complete understanding of a communication despite actual confusion.
- (b) The nature of the disability (e.g., total deafness or blindness vs. impairment)
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact, etc.)
- (d) Availability of resources to aid in communication

When considering these and other available information, the involved employee(s) should carefully balance all factors in an effort to reasonably ensure meaningful access by individuals suffering from apparent disabilities to critical services while not imposing undue burdens on the Department or its officers.

371.2.1 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, department employees should remain alert to the possibility of communication problems and exercise special care in the use of all gestures, and verbal and written communication in an effort to minimize initial confusion and misunderstanding when dealing with any individual(s) with known or suspected disabilities or communication impairments.

371.3 TYPES OF ASSISTANCE AVAILABLE

Depending on the balance of the factors available for consideration at the time, this department will make every reasonable effort to provide meaningful and timely assistance to disabled individuals through a variety of services, where available. Disabled individuals may elect to accept such assistance at no cost, choose to provide their own communication services at their own expense or any combination thereof. In any situation, the individual's expressed choice of communication

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method shall be given primary consideration and honored unless the employee can adequately demonstrate that another effective method of communication exists under the circumstances.

Officers should document the type of communication utilized in any related report and whether a disabled or impaired individual elected to use services provided by the Department or some other identified source. Department provided services may include, but are not limited to the following:

371.3.1 FIELD RESOURCES

Individual officers and employees are encouraged to utilize resources immediately available to them in any contact with a known or suspected disabled or impaired person. Examples of this would include such simple methods as:

- (a) Hand gestures or written communications exchanged between the employee and a deaf or hearing impaired individual
- (b) Facing an individual utilizing lip reading and speaking slowly and clearly
- (c) Slowly and clearly speaking or reading simple terms to any visually or mentally impaired individual

371.3.2 AUDIO RECORDINGS AND ENLARGED PRINT

From time to time, the Department may develop audio recordings of important information needed by blind or visually impaired individuals. In the absence of such audio recordings, employees may elect to read aloud a Department form or document such as a citizen complaint form to a visually impaired individual or utilize a photocopier to enlarge printed forms for a visually impaired individual.

371.3.3 TELEPHONE INTERPRETER SERVICES

The Patrol Sergeant and Dispatch Supervisor will maintain a list of qualified interpreter services to be contacted at department expense to assist deaf or hearing impaired individuals upon approval of a supervisor. When utilized, notification to such interpreters shall be made at the earliest reasonable opportunity and the interpreter should be available to respond within a reasonable time (generally not to exceed three hours).

371.3.4 TTY AND RELAY SERVICES

Individuals who are deaf or hearing impaired must be given the opportunity to use available text telephones (TTY or TDD). All calls placed by such individuals through such services shall be accepted by this department.

371.3.5 COMMUNITY VOLUNTEERS

Depending on the circumstances, location and availability, responsible members of the community may be available to provide qualified interpreter services, such as those who are proficient in American Sign Language (ASL). Sources for these individuals may include local businesses, banks, churches, neighborhood leaders and school officials. In addition to such sources developed by individual officers, the Department will attempt to maintain and update a list of qualified community volunteers who may be available to respond within a reasonable time.

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371.3.6 FAMILY AND FRIENDS OF DISABLED OR IMPAIRED INDIVIDUAL

While family and friends of a disabled or impaired individual may frequently offer to assist with interpretation, employees should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in emergency or critical situations. Further, the nature of the contact and relationship between the disabled individual and the individual offering services must be carefully considered (e.g., victim/suspect).

371.4 CONTACT SITUATIONS AND REPORTING

While all contacts, services, and individual rights are important, this department will carefully consider reasonably available information in an effort to prioritize services to disabled and impaired individuals so that such services and resources may be targeted where most needed because of the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is otherwise required to complete a report or other documentation, and communication assistance is provided to any involved disabled or impaired individual(s), such services should be noted in the related report.

371.4.1 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

In order to provide disabled and impaired individuals with meaningful access to law enforcement services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this department has designated its 911 lines as its top priority for assistance with such services. Department personnel will make every reasonable effort to promptly accommodate such disabled and impaired individuals utilizing 911 lines through any or all of the above resources.

While 911 calls shall receive top priority, it is also important that reasonable efforts be made to accommodate disabled and impaired individuals seeking more routine access to services and information from this department.

371.4.2 CUSTODIAL INTERROGATIONS AND BOOKINGS

In an effort to ensure the rights of all disabled and impaired individuals are protected during arrest and custodial interrogation, this department places a high priority on providing reasonable communication assistance during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, department personnel providing communication assistance in these situations will make every reasonable effort to accurately and effectively communicate with disabled or impaired individuals.

Employees providing such assistance shall also be aware of the inherent communication impediments to gathering information from disabled or impaired individuals throughout the booking process or any other situation in which a disabled or impaired individual is within the control of department personnel. Medical screening questions are commonly used to elicit information on individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, resulting symptoms upon withdrawal from certain medications, or the need to segregate

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the arrestee from other prisoners, therefore it is important for this department to make every reasonable effort to provide effective communication assistance in these situations.

- (a) Individuals who require communication aids (e.g., hearing aids) should be permitted to retain such devices while in custody.
- (b) While it may present officer safety or other logistical problems to allow a physically disabled individual to retain devices such as a wheel chair or crutches during a custodial situation, the removal of such items will require that other reasonable accommodations be made to assist such individuals with access to all necessary services.
- (c) Whenever a deaf or hearing impaired individual is detained or arrested and placed in handcuffs, officers should consider, safety permitting, placing the handcuffs in front of the body in order to allow the individual to sign or write notes.

371.4.3 FIELD ENFORCEMENT AND INVESTIGATIONS

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts which may involve disabled or impaired individuals. The scope and nature of these activities and contacts will inevitably vary, therefore the Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every officer in the field. Each officer and/or supervisor must, however, assess each such situation to determine the need and availability for communication assistance to any and all involved disabled or impaired individuals.

Although not every situation can be addressed within this policy, it is important that employees are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action taken with a disabled or impaired individual. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with a deaf individual.

371.4.4 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department have become increasingly recognized as important to the ultimate success of more traditional law enforcement duties. As such, this department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services to disabled individuals and groups.

371.5 TRAINING

In an effort to ensure that all employees in public contact positions (or having contact with those in custody) are properly trained, this department will provide periodic training in the following areas:

- (a) Employee awareness of related policies, procedures, forms and available resources
- (b) Employees having contact with the public (or those in our custody) are trained to work effectively with in-person and telephone interpreters and related equipment

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- (c) Training for management staff, even if they may not interact regularly with disabled individuals, in order that they remain fully aware of, and understand this policy, so they can reinforce its importance and ensure its implementation by staff

Stalking

377.1 PURPOSE AND SCOPE

This policy establishes procedures for the investigation and enforcement of stalking complaints (ORS 163.730 et seq.).

377.2 POLICY

Stalking behavior frequently results in serious injury and emotional trauma to victims and it is the policy of the Milwaukie Police Department to ensure that complaints of stalking will be given high priority and that every formal stalking complaint will be thoroughly investigated and forwarded to the District Attorney's Office.

377.3 UNIFORM STALKING COMPLAINT

The Department will make available an Oregon Uniform Stalking Complaint form to any person desiring to file a stalking complaint regardless of where the violation is alleged to have occurred. Officers will provide reasonable assistance as necessary to petitioners to properly complete and sign the form.

Upon receipt of a Uniform Stalking Complaint, officers shall complete a thorough investigation. All stalking incident reports and the results of any investigation shall be forwarded to the District Attorney's Office within three days, regardless of whether any civil or criminal action was taken (ORS 163.744; ORS 163.738(7)).

377.4 UNIFORM STALKING CITATION

If after investigating a stalking complaint the officer has probable cause to believe that the offense of stalking has occurred as provided in ORS 163.732(1), the officer shall issue and attempt to serve a Uniform Stalking Citation to the respondent to appear in court within three judicial days of service to determine if a Stalking Protective Order will be issued (ORS 163.735; ORS 163.738).

377.4.1 SERVICE OF STALKING CITATIONS

If the Uniform Stalking Citation is served on a respondent, the District Attorney's Office will initiate the hearing process. Officers should:

- (a) Advise the respondent of the following:
 1. The court date and time and location of appearance
 2. The contents of the citation and the state and federal law restrictions contained on the front and back of the respondent's copy of the citation
 3. That if the respondent fails to appear at the hearing, a warrant will be issued for their arrest, as well as a Stalking Protective Order
 4. That engaging in behavior that alarms or coerces the petitioner may result in their arrest

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- (b) Provide a copy to the petitioner and advise the petitioner that they must also appear at the hearing or the complaint will be dismissed and the Stalking Protective Order will not be issued.

If there is probable cause to issue a citation, but the citation is not served, officers should:

- (a) Document attempts to serve the respondent.
- (b) Refer the victim to the following for assistance in obtaining a civil Stalking Protective Order:
 1. A private attorney
 2. Legal Aid
 3. The District Attorney's office Victim Assistance Unit

377.5 ARREST

Officers may arrest or cite a suspect for any criminal offense committed (including stalking) if the statutory elements have been met, as well as issue a (civil) Uniform Stalking Citation; the two actions are not mutually exclusive.

377.5.1 STALKING PROTECTIVE ORDERS

Once the court issues a Stalking Protective Order and it is served on the respondent, officers may arrest the respondent for violating the terms of the order (ORS 163.750).

377.6 RESTRAINING ORDERS

Court stalking orders and restraining orders are different and are not mutually exclusive. Stalking reports may be appropriate even if a valid restraining order is in place.

Chaplains

379.1 PURPOSE AND SCOPE

The Milwaukie Police Department Chaplain Program is established for the purposes of providing spiritual and emotional support to all members of the Department, their families and members of the public.

379.2 POLICY

It is the policy of this department that the Chaplain Program shall be a non-denominational, ecumenical ministry provided by volunteer clergy without financial compensation.

379.3 GOALS

Members of the Chaplain Program shall fulfill the program's purpose in the following manner:

- (a) By serving as a resource for department personnel when dealing with the public in such incidents as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse, and other such situations that may arise.
- (b) By providing an additional link between the community, other chaplain programs and the Department.
- (c) By providing counseling, spiritual guidance and insight for department personnel and their families.
- (d) By being alert to the spiritual and emotional needs of department personnel and their families.
- (e) By familiarizing themselves with the role of law enforcement in the community.

379.4 REQUIREMENTS

Candidates for the Chaplain Program shall meet the following requirements:

- (a) Must be above reproach, temperate, prudent, respectable, hospitable, able to teach, not be addicted to alcohol or other drugs, not contentious, and free from excessive debt. Must manage their household, family, and personal affairs well. Must have a good reputation with those outside the church.
- (b) Must be ecclesiastically certified and/or endorsed, ordained, licensed, or commissioned by a recognized religious body.
- (c) Must successfully complete an appropriate level background investigation.
- (d) Must have at least five years of successful ministry experience within a recognized church or religious denomination.
- (e) Membership in good standing with the International Conference of Police Chaplains (ICPC).
- (f) Possess a valid Oregon Driver License.

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379.4.1 RECRUITMENT

Chaplains should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity and nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in and an ability to assist the Department in serving the public. Chaplain candidates are encouraged to participate in ride-alongs with department members before and during the selection process.

379.4.1 SELECTION AND APPOINTMENT

Chaplain candidates shall successfully complete the following process prior to appointment as a chaplain:

- (a) Submit the appropriate written application.
- (b) Include a recommendation from employers or volunteer programs.
- (c) Interview with the Chief of Police and the chaplain coordinator.
- (d) Successfully complete an appropriate-level background investigation.
- (e) Complete an appropriate probationary period as designated by the Chief of Police.

Chaplains are volunteers and serve at the discretion of the Chief of Police. Chaplains shall have no property interest in continued appointment. However, if a chaplain is removed for alleged misconduct, the chaplain will be afforded an opportunity solely to clear his/her name through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

379.5 SELECTION PROCESS

Chaplain candidates are encouraged to participate in the ride-along program before and during the selection process. Chaplain candidates shall successfully complete the following process prior to deployment as a chaplain:

- (a) Appropriate written application.
- (b) Recommendation from their church elders, board, or council.
- (c) Interview with Chief of Police & Chaplain Supervisor
- (d) Successfully complete an appropriate level background investigation.
- (e) Complete an appropriate probationary period as designated by the Chief of Police.

379.6 DUTIES AND RESPONSIBILITIES

The duties of a chaplain include, but are not limited to, the following:

- (a) Assisting in making notification to families of department members who have been seriously injured or killed.
- (b) After notification, responding to the hospital or home of the department member.
- (c) Visiting sick or injured law enforcement personnel in the hospital or at home.

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- (d) Attending and participating, when requested, in funerals of active or retired members of the Department.
- (e) Assisting sworn personnel in the diffusion of a conflict or incident when requested.
- (f) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Patrol Sergeant or supervisor aids in accomplishing the Department's mission.
- (g) Being on call and if at all possible, on duty during major demonstrations or any public function that requires the presence of a large number of department personnel.
- (h) Counseling with officers and other personnel with personal problems when requested.
- (i) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (j) Being responsible for the organization and development of spiritual organizations in the Department.
- (k) Responding to all major disasters such as earthquakes, bombings and similar critical incidents.
- (l) Providing liaison with various religious leaders of the community.
- (m) Assisting public safety personnel and the community in any other function of the clergy profession as requested.
- (n) Participating in in-service training classes.
- (o) Willing to train to enhance effectiveness.
- (p) Promptly facilitating requests for representatives or ministers of other various denominations.
- (q) Making referrals in cases where specialized attention is needed, or in those cases that are beyond the chaplain's ability to assist.

Chaplains may not proselytize or attempt to recruit members of the department or the public into a religious affiliation while on-duty unless the receiving person has solicited spiritual guidance or teaching. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service or follow-up contact that was provided while functioning as a chaplain for the Milwaukie Police Department.

379.7 CONFIDENTIALITY

Except as otherwise specified, matters of a personal nature that are discussed between chaplains and others shall remain private and confidential. Members of the clergy are not required to reveal penitential communications; however, clergy must report child, elder or dependent adult abuse discovered while acting in any of the following capacities:

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- (a) Marriage, family, or child counselor.
- (b) Religious practitioner, who diagnoses, examines or treats children, elders, or dependent adults.

379.7.1 COMPLIANCE

Chaplains are volunteer members of this department, and except as otherwise specified within this policy, are required to comply with the Volunteer Program Policy and other applicable policies.

379.7.1 COMPLIANCE

Chaplains are volunteer members of this department, and except as otherwise specified within this policy, are required to comply with the Volunteer Program Policy and other applicable policies.

379.7.1 OPERATIONAL GUIDELINES

- (a) Chaplains will be scheduled to be on-call for a period of seven consecutive days during each month, beginning on Monday and ending on the following Sunday.
- (b) Generally, each chaplain will serve with Milwaukie Police Department personnel a minimum of eight hours per month.
- (c) At the end of each watch the chaplain will complete a chaplain shift report and submit it to the Chief of Police or the authorized designee.
- (d) Chaplains shall be permitted to ride with officers during any shift and observe Milwaukie Police Department operations, provided the Patrol Sergeant has been notified and has approved the activity.
- (e) Chaplains shall not be evaluators of members of the Department.
- (f) In responding to incidents, a chaplain shall never function as an officer.
- (g) When responding to in-progress calls for service, chaplains may be required to stand-by in a secure area until the situation has been deemed safe.
- (h) Chaplains shall serve only within the jurisdiction of the Milwaukie Police Department unless otherwise authorized by the Chief of Police or the authorized designee.
- (i) Each chaplain shall have access to current department member rosters, addresses, telephone numbers, duty assignments and other information that may assist in his/her duties. Such information will be considered confidential and each chaplain will exercise appropriate security measures to prevent distribution of the data.

379.7.1 ASSISTING DEPARTMENT MEMBERS

The responsibilities of a chaplain related to department members include, but are not limited to:

- (a) Assisting in making notification to families of members who have been seriously injured or killed and, after notification, responding to the hospital or home of the member.
- (b) Visiting sick or injured members in the hospital or at home.
- (c) Attending and participating, when requested, in funerals of active or retired members.

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- (d) Serving as a resource for members when dealing with the public in incidents, such as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse and other such situations that may arise.
- (e) Providing counseling and support for members and their families.
- (f) Being alert to the needs of members and their families.

379.7.1 ASSISTING DEPARTMENT MEMBERS

The responsibilities of a chaplain related to department members include, but are not limited to:

- (a) Assisting in making notification to families of members who have been seriously injured or killed and, after notification, responding to the hospital or home of the member.
- (b) Visiting sick or injured members in the hospital or at home.
- (c) Attending and participating, when requested, in funerals of active or retired members.
- (d) Serving as a resource for members when dealing with the public in incidents, such as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse and other such situations that may arise.
- (e) Providing counseling and support for members and their families.
- (f) Being alert to the needs of members and their families.

379.7.1 ASSISTING THE DEPARTMENT

The responsibilities of a chaplain related to this department include, but are not limited to:

- (a) Assisting members in the diffusion of a conflict or incident, when requested.
- (b) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Patrol Sergeant or supervisor aids in accomplishing the mission of the Department.
- (c) Responding to all major disasters, such as natural disasters, bombings and similar critical incidents.
- (d) Being on-call and, if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department members.
- (e) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (f) Participating in in-service training classes.
- (g) Willingness to train others to enhance the effectiveness of the Department.

379.7.1 ASSISTING THE COMMUNITY

The duties of a chaplain related to the community include, but are not limited to:

- (a) Fostering familiarity with the role of law enforcement in the community.
- (b) Providing an additional link between the community, other chaplain coordinators and the Department.

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- (c) Providing liaison with various civic, business and religious organizations.
- (d) Promptly facilitating requests for representatives or leaders of various denominations.
- (e) Assisting the community in any other function as needed or requested.
- (f) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

379.7.1 CHAPLAIN MEETINGS

All chaplains are required to attend scheduled meetings. Any absences must be satisfactorily explained to the chaplain coordinator.

379.8 COMMAND STRUCTURE

- (a) Under the general direction of the Chief of Police or his/her designee, chaplains shall report to the Senior Chaplain and/or Patrol Sergeant.
- (b) The Chief of Police shall make all appointments to the Chaplain Program and will designate a Senior Chaplain/Chaplain Commander.
- (c) The Senior Chaplain shall serve as the liaison between the Chaplain Unit and the Chief of Police. He/she will arrange for regular monthly meetings, act as chairman of all chaplain meetings, prepare monthly schedules, maintain records on all activities of the Chaplain Unit, coordinate activities that may concern the members of the Chaplain Unit and arrange for training classes for chaplains.

379.9 OPERATIONAL GUIDELINES

- (a) Chaplains will be scheduled to be on-call for a period of seven days at a time during each month, beginning on Monday and ending on the following Sunday.
- (b) Generally, each chaplain will serve with Milwaukie Police Department personnel a minimum of eight hours per month.
- (c) At the end of each watch the chaplain will complete a Chaplain Shift Report and submit it to the Chief of Police or his designee.
- (d) Chaplains shall be permitted to ride with officers during any shift and observe Milwaukie Police Department operations, provided the Patrol Sergeant has been notified and approved of the activity.
- (e) Chaplains shall not be evaluators of employees and shall not be required to report on an employee's performance or conduct.
- (f) In responding to incidents, a chaplain shall never function as an officer.
- (g) When responding to in-progress calls for service, chaplains may be required to stand-by in a secure area until the situation has been deemed safe.

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- (h) Chaplains shall serve only within the jurisdiction of the Milwaukie Police Department unless otherwise authorized by the Chief of Police or his designee.
- (i) Each chaplain shall have access to current personnel rosters, addresses, telephone numbers, duty assignments and other information that may assist in their duties. Such information will be considered confidential and each chaplain will exercise appropriate security measures to prevent distribution of the information.

379.9.1 UNIFORMS AND BADGES

A distinct uniform, badge and necessary safety equipment will be provided for the Chaplains. This uniform may be similar to that worn by the personnel of this department.

379.10 TRAINING

The Department will establish a minimum number of training hours and standards for department chaplains. The training may include stress management, death notifications, post-traumatic stress syndrome, burnout for officers and chaplains, legal liability and confidentiality, ethics, responding to crisis situations, the law enforcement family, substance abuse, suicide, officer injury or death, and sensitivity and diversity, as approved by the Training Sergeant.

Child and Dependent Adult Safety

381.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department.

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse Policy and the Adult Abuse Policy.

381.1.1 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience children may have when their parent or caregiver is arrested. The Milwaukie Police Department will endeavor to create a strong cooperative relationship with local, state and community-based child social services to ensure an effective, collaborative response that addresses the needs of affected children.

381.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Milwaukie Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected.

381.2.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered, dependent minor children.

Officers should allow the arrestee reasonable time to arrange for care of minor children. Temporary placement of the child with family or friends may be appropriate. However, any decision should give priority to a child-care solution that is in the best interest of the child. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of minor children with a responsible party, as appropriate.
 1. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent's judgment regarding arrangements for child care. It is generally best if the child remains with relatives or family friends the child knows and trusts. Consideration regarding the child's familiarity with the surroundings, comfort, emotional state and safety should be paramount.

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2. Except when a court order exists limiting contact, the officer should attempt to locate and place dependent children with the non-arrested parent or guardian.
 - (b) Provide for the immediate supervision of minor children until an appropriate caregiver arrives.
 - (c) Notify Child Protective Services if appropriate.
 - (d) Notify the field supervisor or Patrol Sergeant of the disposition of minor children.

If children are at school or at a known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the parent's arrest and of the arrangements being made for the care of the arrestee's children, and then record the result of such actions in the associated report.

381.2.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional free local phone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any minor dependent child. These phone calls shall be given immediately upon request or as soon as practicable and are in addition to any other phone calls allowed by law.

381.2.3 REPORTING

For all arrests where children are present or living in the household, the reporting employee will include information about the children, including names, gender, age and how they were placed.

381.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

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Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

381.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate.

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked law enforcement vehicle or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

Service Animals

383.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Milwaukie Police Department recognizes this need and is committed to making reasonable modifications to its policies, practices, and procedures in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA) to permit the use of any animal that is individually trained to assist a person with a disability.

383.2 SERVICE ANIMALS

The ADA defines a service animal as any guide dog, signal dog or other animal individually trained to provide assistance to an individual with a disability. Service animals may be of any type or breed and need not be certified by any governmental agency or service group.

Some service animals, such as guide dogs, may be readily identifiable but many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist individuals with disabilities.

The following examples are just some of the ways service animals may be used to provide assistance:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors, or flipping switches for people with disabilities who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting people with physical disabilities with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities, or psychiatric disabilities, such as reminding a person with depression to take medication or to wake the person.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items, find places or follow daily routines.

383.2.1 STATE LAW

Oregon law expands the definition of a service or assistance animal to include any animal that is trained to assist a person with a physical impairment in one or more daily life activities (ORS 346.680).

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383.3 EMPLOYEE RESPONSIBILITIES

Under the Americans with Disabilities Act, service animals assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Employees are expected to treat individuals with service animals with the same courtesy and respect that the Milwaukie Police Department affords to all members of the public.

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations the employee may direct the partner/handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the partner/handler takes prompt, effective action to control the animal. Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities and members of this department are expected to provide all services as are reasonably available to the individual with the disability.

If it is apparent or if the employee is aware the animal is a service animal, the handler/partner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the officer should ask the individual only the following questions:

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task the animal meets the definition of a service animal and no further question as to the animal's status should be asked. The person should not be asked questions about his/her disabilities nor should the person be asked to provide any license, certification or ID card for the service animal.

Service animals are not pets. Employees should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to permit service animals to accompany their partner/handler in all areas that other customers or members of the public are allowed.

Absent a violation of law independent of ADA, officers should take no enforcement action beyond keeping the peace and any individual who, as a result his/her disability, believes he/she has been discriminated against should be referred to the Civil Right Division of the U.S. Department of Justice.

383.4 INQUIRIES AND COMPLAINTS

Under the Americans with Disabilities Act, people with disabilities have the right to be accompanied by service animals in public areas throughout this City and the Milwaukie Police Department considers interference with or denial of this right by any member of this department to be a

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serious violation of this policy. Complaints alleging violations of this policy against any department employee will be promptly investigated and should be referred to the Operations Captain.

Volunteer Program

386.1 PURPOSE AND SCOPE

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn officers and civilian personnel. Volunteers can be an important part of any organization and have proven to be a valuable asset to law enforcement agencies. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

386.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, unpaid reserve officers, interns, persons providing administrative support and youth involved in a law enforcement Explorer Post, among others.

386.2 VOLUNTEER MANAGEMENT

386.2.1 VOLUNTEER COORDINATOR

The Volunteer Coordinator shall be appointed by the Administration Captain. The function of the Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Volunteer Coordinator should work with other Department staff on an ongoing basis to assist in the development and implementation of volunteer-staffed positions.

The Volunteer Coordinator, or his/her designee, shall be responsible for the following:

- (a) Recruiting, selecting and training qualified volunteers for various positions.
- (b) Facilitating the implementation of new volunteer activities and assignments.
- (c) Maintaining records for each volunteer.
- (d) Tracking and evaluating the contribution of volunteers.
- (e) Maintaining the volunteer handbook and outlining expectations, policies and responsibilities for all volunteers.
- (f) Maintaining a record of volunteer schedules and work hours.
- (g) Completion and dissemination as appropriate of all necessary paperwork and information.
- (h) Planning periodic recognition events.
- (i) Administering discipline when warranted.

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- (j) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

386.2.2 RECRUITMENT

Volunteers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in, and an ability to assist the Department in serving the public.

Requests for volunteers should be submitted in writing by interested staff to the Volunteer Coordinator through the requester's immediate supervisor. A complete position description and a requested time frame should be included in the request. All parties should understand that the recruitment of volunteers is enhanced by creative and interesting assignments. The Volunteer Coordinator may withhold assignment of any volunteer until such time as the requesting unit is prepared to make effective use of volunteer resources.

386.2.3 SCREENING

All prospective volunteers should complete the City of Milwaukie application form. The Volunteer Coordinator or designee should conduct a face-to-face interview with an applicant under consideration.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily be limited to, the following:

- (a) Traffic and criminal background check. Fingerprints shall be obtained from all applicants and processed through the Oregon State Police Clearinghouse Unit.
- (b) Employment.
- (c) References.
- (d) Credit check.

386.2.4 SELECTION AND PLACEMENT

Service as a volunteer with the Department shall begin with an official notice of acceptance or appointment to a volunteer position. Notice may only be given by an authorized representative of the Department, who will normally be the Volunteer Coordinator. No volunteer should begin any assignment until they have been officially accepted for that position and completed all required screening and paperwork. At the time of final acceptance, each volunteer should complete all required enrollment paperwork and will receive a copy of their position description and agreement of service with the Department. All volunteers shall receive a copy of the volunteer handbook and shall be required to sign a volunteer agreement.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

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386.2.5 TRAINING

Volunteers will be provided with an orientation program to acquaint them with the Department, personnel, policies and procedures that have a direct impact on their work assignment.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor or the Volunteer Coordinator.

Training should reinforce to volunteers that they may not intentionally represent themselves as, or by omission infer that they are sworn officers or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Department.

386.2.6 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury.

Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

- (a) Driver's license
- (b) Medical condition
- (c) Arrests
- (d) Criminal investigations

All volunteers shall adhere to the guidelines set forth by this department regarding drug and alcohol use.

386.2.7 DRESS CODE

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties.

Volunteers shall conform to department-approved dress consistent with their duty assignment. Uniforms authorized for volunteers should be readily distinguishable from those worn by sworn officers. The uniform or identifiable parts of the uniform shall not be worn while off-duty except volunteers may choose to wear the uniform while in transit to or from official department assignments or functions provided an outer garment is worn over the uniform shirt so as not to bring attention to the volunteer while he/she is off duty.

Volunteers shall be required to return any issued uniform or department property at the termination of service.

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386.3 SUPERVISION OF VOLUNTEERS

Each volunteer who is accepted to a position with the Department must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

A volunteer may be assigned as and act as a supervisor of other volunteers provided that the supervising volunteer is under the direct supervision of a paid staff member.

Functional supervision of volunteers is the responsibility of the supervisor in charge of the unit where the volunteer is assigned. Following are some considerations to keep in mind while supervising volunteers:

- (a) Take the time to introduce volunteers to employees on all levels.
- (b) Ensure volunteers have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

386.4 CONFIDENTIALITY

With appropriate security clearance, volunteers may have access to confidential information such as criminal histories or investigative files. Unless otherwise directed by a supervisor or departmental policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by departmental policy and supervisory personnel.

Each volunteer will be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

386.5 PROPERTY AND EQUIPMENT

Volunteers will be issued an identification card that must be worn at all times while on-duty.

Any fixed and portable equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service.

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386.5.1 VEHICLE USE

Volunteers assigned to duties such as vacation house checks or other assignments that require the use of a vehicle must first complete the following:

- (a) A driving safety briefing and department approved driver safety course.
- (b) Verification that the volunteer possesses a valid Oregon Driver's License.
- (c) Verification that the volunteer carries current vehicle insurance.

The Volunteer Coordinator should insure that all volunteers receive safety briefing updates and license and insurance verification at least once a year.

When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Smoking is prohibited in all Department vehicles.

Volunteers should not operate a marked patrol car unless there is a prominently placed sign indicating that it is out of service and volunteers are not authorized to operate a Department vehicle Code-3.

386.5.2 RADIO AND MDC USAGE

Volunteers shall successfully complete the Law Enforcement Data System (LEDS) and radio procedures training prior to using the police radio or MDC and comply with all related provisions. The Volunteer Coordinator should ensure that radio and LEDS training is provided for volunteers whenever necessary.

386.6 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief of Police or the Volunteer Coordinator. Volunteers shall have no property interests in their continued appointment. However, if a volunteer is removed for alleged misconduct, the volunteer will be afforded an opportunity solely to clear his/her name through a liberty interest hearing which shall be limited to a single appearance before the Chief of Police or authorized designee.

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

386.6.1 EXIT INTERVIEWS

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

386.7 EVALUATION

An evaluation of the overall volunteer program will be conducted on an annual basis by the Volunteer Coordinator. Regular evaluations should be conducted with volunteers to ensure the

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best use of human resources available, to ensure personnel problems can be identified and dealt with promptly and fairly, and to ensure optimum satisfaction on the part of volunteers.

Off-Duty Law Enforcement Actions

388.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Milwaukie Police Department with respect to taking law enforcement action while off-duty.

388.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Officers are not expected to place themselves in unreasonable peril. However, any sworn member of this department who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action if required by the circumstances.

388.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in the department Firearms and Qualification Policy. When carrying firearms while off-duty officers shall also carry their department-issued badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

388.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, OC or baton.
- (d) The lack of cover.

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- (e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.
- (h) Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

388.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an Milwaukie Police Department officer until acknowledged. Official identification should also be displayed.

388.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

388.4.3 NON-SWORN RESPONSIBILITIES

Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

388.4.4 OTHER CONSIDERATIONS

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

388.5 REPORTING

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify their ranking supervisor as soon as practicable

with consideration that the more serious the event, the more promptly the notice should occur. The supervisor will determine whether a report should be filed by the employee.

Patrol Sergeant shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

Extreme Risk Protection Orders

389.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning for and serving extreme risk protection orders and accounting for the deadly weapons obtained pursuant to those orders.

389.1.1 DEFINITIONS

Definitions related to this policy include (ORS 166.525):

Deadly weapon - A firearm, whether loaded or unloaded, or any other instrument, article, or substance specifically designed for and presently capable of causing death or serious physical injury.

Extreme risk protection order - An order prohibiting a named person from having in his/her custody or control, owning, purchasing, possessing, receiving, or attempting to purchase or receive a deadly weapon.

389.2 POLICY

It is the policy of the City of Milwaukie to petition for and serve extreme risk protection orders in compliance with state law, and to properly account for deadly weapons obtained by the Department pursuant to such orders.

389.3 EXTREME RISK PROTECTION ORDERS

An officer who reasonably believes a person presents a risk in the near future, including an imminent risk of suicide or causing physical injury to another person, may request permission from his/her supervisor to petition the court for an extreme risk protection order. The petition must be supported by a written affidavit signed under oath or by a sworn oral statement (ORS 166.527).

389.4 SERVICE

The person shall be personally served with a copy of the extreme risk protection order and a hearing request form. The officer assigned to serve the order and hearing request form shall immediately deliver to the county sheriff a true copy of proof of service and a copy of the order (ORS 166.527).

The county sheriff is responsible for entering the order into the state's Law Enforcement Data Systems (LEDS) with a request that the order be entered in the National Crime Information Center (NCIC). Entry into LEDS constitutes notice to all law enforcement agencies of the existence of the order, which is enforceable throughout the state (ORS 166.527).

If service of the order cannot be completed within 10 days, the officer shall notify the petitioner at the address he/she provided. If the officer is the petitioner and service is not made, the order shall be held for future service and the officer should file notice with the court showing service was not completed (ORS 166.527).

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Extreme Risk Protection Orders

389.5 RECORDS SUPERVISOR RESPONSIBILITIES

The Records Supervisor is responsible for ensuring that the original receipt of surrendered deadly weapons and concealed handgun license is filed with the court within 72 hours of service of an extreme risk protection order. A copy of the receipt shall also be properly maintained by the Department (ORS 166.537).

389.6 COURT-ORDERED SURRENDER OF DEADLY WEAPONS

Authorized members should accept deadly weapons and a concealed handgun license from any person who is the subject of an extreme risk protection order. The member receiving any such items shall issue a receipt identifying all surrendered items, in addition to following other relevant Department procedures (ORS 166.537).

389.7 RELEASE OF DEADLY WEAPONS

Any deadly weapon or concealed handgun license in Department custody pursuant to an extreme risk protection order will be released only as authorized by ORS 166.540 and applicable provisions of the Property and Evidence Policy.

389.8 RENEWAL OF EXTREME RISK PROTECTION ORDER

The Detective Division supervisor is responsible for the review of any extreme risk protection order obtained by the Department to determine if renewal should be requested within the time prescribed by law (ORS 166.535).

Chapter 4 - Patrol Operations

Patrol Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the functions of the patrol unit of the Department to ensure intra-department cooperation and information sharing.

400.1.1 FUNCTION

Officers will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Milwaukie Police Department, respond to citizen calls for assistance, act as a deterrent to crime, enforce local ordinances as well as state laws, and respond to emergencies 24 hours per day seven days per week.

Patrol will generally provide the following services within the limits of available resources:

- (a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order, and the discovery of hazardous situations or conditions
- (b) Crime prevention activities such as residential inspections, business inspections, community presentations, etc.
- (c) Calls for service, both routine and emergency in nature
- (d) Investigation of both criminal and non-criminal acts
- (e) The apprehension of criminal offenders
- (f) Community Oriented Policing and Problem Solving activities such as citizen assists and individual citizen contacts of a positive nature
- (g) The sharing of information between the Patrol and other divisions within the Department, as well as other outside governmental agencies
- (h) The application of resources to specific problems or situations within the community, which may be improved or resolved by Community Oriented Policing and problem solving strategies
- (i) Traffic direction and control

400.1.2 TERRORISM

It is the goal of the Milwaukie Police Department to make every reasonable effort to accurately and appropriately gather and report any information that may relate to either foreign or domestic terrorism. Officers should advise a supervisor as soon as practicable of any activity believed to be terrorism related and should document such incidents with a written report or Field Interview (FI). The supervisor should ensure that all terrorism related reports and FIs are forwarded to the Detective Division Supervisor in a timely fashion.

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400.2 PATROL INFORMATION SHARING PROCEDURES

The following guidelines are intended to develop and maintain intra-department cooperation and information flow between the various divisions of the Milwaukie Police Department.

400.2.1 CRIME REPORTS

A crime report may be completed by any patrol officer who receives criminal information. The report will be processed and forwarded to the appropriate division for retention or follow-up investigation.

400.2.2 PATROL BRIEFINGS

Patrol supervisors, detective sergeants, and special unit sergeants are encouraged to share information as much as possible. All supervisors and/or officers will be provided an opportunity to share information at the daily patrol briefings as time permits.

400.2.3 INFORMATION CLIPBOARDS

Several information clipboards will be maintained in the briefing room and will be available for review by all within the Department. These will include, but not be limited to, the briefing clipboard, the warrant clipboard, and the written directive clipboard.

400.2.4 BULLETIN BOARDS

A bulletin board will be kept in the briefing room and the for display of suspect information, intelligence reports and photographs. New or Operational Directives will be made available for patrol supervisors and will be discussed at briefings and shift meetings. A copy of the Operational Directive will be placed on the briefing room clipboard.

400.3 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

Bias-Based Policing

402.1 PURPOSE AND SCOPE

The Milwaukee Police Department strives to provide excellent law enforcement services to our community with due regard to the racial and cultural differences of those we serve.

The Milwaukee Police recognize biased policing undermines legitimate law enforcement efforts, alienates community members, and fosters community distrust. The purpose of this policy is to emphasize this agency's commitment to unbiased, equitable treatment of all persons.

It is therefore the policy and practice of this department to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group because of their race, ethnicity or nationality, religion, gender, gender identity or expression, sexual orientation, or disability.

402.1.1 DEFINITIONS

Definitions related to this policy include:

Racial/Bias-based Profiling-the practice of stopping or detaining any individual(s) based solely upon the individual(s)' membership in a protected class of people without any individualized suspicion of the person being stopped.

Biased Policing: The inappropriate consideration of specified characteristics when enforcing the law or providing police services.

Fair and Impartial Treatment: Persons, irrespective of race or other distinctions, are treated in the same basic manner under the same or similar circumstances. This does not mean that all persons in the same or similar circumstances can or must be treated identically. Reasonable concessions and accommodations may be, and sometimes should be made, when dealing with individuals with physical or mental disabilities injury, illness, or similar conditions, or when information about them necessitates different treatment.

Specified Characteristics: Race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, socioeconomic status, age, disability, or political status.

Police Services: Sometimes referred to as community caretaking functions, these are actions and activities that may not directly include enforcement of the law but that contribute to the overall well-being and safety of the public. These include, but are not limited to, such tasks as assistance at fire scenes, traffic accidents, and medical emergencies; lifesaving services; crime prevention; preventive patrol; traffic control; public information community engagement and similar activities.

402.2 POLICY

The Milwaukee Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally,

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fairly, objectively and without discrimination toward any individual or group. Per Oregon law the Milwaukie Police Department will conduct annual training regarding Implicit Bias.

402.3 MEMBER RESPONSIBILITIES

The practice of racial/bias based profiling is illegal and will not be tolerated by this department (ORS 810.410).

A. Fair and Impartial Treatment

1. It is the policy of this department to enforce the law and deliver police services equally, fairly and without discrimination toward any individual or group.
2. Agency personnel may only consider the specified characteristics when performing law enforcement duties or delivering police services when seeking one or more specific individuals who have been identified or described in part by any of the specified characteristics. In those circumstances, personnel may rely on these characteristics only in combination with other appropriate factors.
3. It is biased policing if an officer's decisions/actions are based on the fact that the individual's demographics (e.g., race, income) are different from the demographics of the majority of the residents in the area in which the individual is found.
4. Unless exigent circumstances exist, officers shall not engage in a law enforcement matter when it involves a family member, friend, relative, or other person with whom he or she has a personal relationship, such that the officer's objectivity may be, or may appear to be, compromised. In situations where the officer is personally involved, he or she will summon other officers for assistance.

B. Compliance

1. Officers who witness or who are aware of instances of biased policing shall report the incident to a supervisor. Also, where appropriate, officers are encouraged to intervene at the time the biased policing incident occurs
 2. Supervisors shall ensure that all personnel in their command are familiar with the content of this policy and will be alert and respond to indications that biased policing is occurring.
 - (a) Violations of this policy shall result in training, counseling, discipline or other remedial intervention as appropriate to the violation.
 - (b) All external complaints and internal complaints that cannot be resolved effectively and appropriately by supervisory personnel—or that are determined to be potentially serious in nature—shall be forwarded to the agency's internal affairs office or other designated authority for investigation.
 - (c) The internal affairs office shall maintain data relating specifically to complaints of biased policing. Information shall be provided to the chief executive officer or designated authority in a manner most suitable for administrative review, problem identification, and development of appropriate corrective actions.

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- (d) There shall be an annual administrative review of agency practices including citizen concerns and any corrective measures taken.

The Milwaukie Police Department will investigate all complaints of alleged racial/bias based profiling against its members. Employees found to be in violation of this policy may be subject to remedial corrective action or progressive discipline in accordance with policy and the collective bargaining agreement.

402.3.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

402.4 TRAINING

- (a) All employees will receive basic and periodic in-service training and, where deemed necessary, remedial training on subjects related to police ethics, cultural diversity, police-citizen interaction, standards of conduct, implicit bias, legal aspects of biased policing, and related topics suitable for preventing incidents of biased policing.
- (a)

402.5 ADMINISTRATION

In the first quarter of each calendar year, the Operations Captain will review the Department's effort to prevent racial/bias based profiling and submit an overview, including STOPS Data, officer complaint data/demographics, Use of Force data/demographics and any other public concerns, to the Chief of Police. This overview will not contain any identifying information regarding any specific complaint, citizen, or officer. The Chief of Police will review this information with the City Manager and Human Resources Director. This is an ongoing and collective effort by the City and the Police Department to prevent our community members from being harmed by bias.

Acknowledgement

This document is based on the IACP model policy. Dr. Lorie Fridell of the University of South Florida and Fair & Impartial Policing assisted the IACP in the development of its model policy and assisted the Florida Police Chiefs Association in the development of this version.

402.5.1 STATE REPORTING TO LAW ENFORCEMENT CONTACTS POLICY AND DATA REVIEW COMMITTEE

The Records Department shall annually provide Law Enforcement Contacts Policy and Data Review Committee (LECC) the following (ORS 131.925):

- (a) Copies of profiling complaints received by the Department.

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- (b) A summary of each profiling complaint received by the Department and the final disposition of the profiling complaint on the appropriate Department of State Police (DSP) form.
 - 1. This form is to be submitted even if no profiling complaints were received by the Department.

Summaries of complaints and copies of complaints provided to LECC may not include personal information concerning the complainant or an officer except as to any personal information on the DSP form (ORS 131.925).

The Records should provide LECC, upon request, data regarding stops or contacts as identified in ORS 131.906(5). Data provided may not identify an officer or an individual whose demographic data is collected (ORS 131.906).

402.5.2 STATE REPORTING TO OREGON CRIMINAL JUSTICE COMMISSION

The Records shall provide the OCJC with traffic and pedestrian stop data annually as prescribed by ORS 131.935.

Data may not include information that reveals the identity of any stopped individual or of any officer (ORS 131.935).

Roll Call Briefing Training

404.1 PURPOSE AND SCOPE

Roll Call Briefing training is generally conducted before a patrol officer's assigned shift. Roll Call Briefing training provides an opportunity for important exchange between employees and supervisors. A supervisor generally conducts Roll Call Briefing training; however officers may conduct Roll Call Briefing for training purposes with supervisor approval.

Roll Call Briefing should accomplish, at a minimum, the following basic tasks:

- (a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations
- (b) Notifying officers of changes in schedules and assignments
- (c) Notifying officers of new Departmental Directive or changes in Departmental Directive
- (d) Reviewing recent incidents for training purposes
- (e) Providing training on a variety of subjects

404.2 PREPARATION OF MATERIALS

The supervisor conducting Roll Call Briefing training is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his or her absence or for training purposes.

Crime and Disaster Scene Integrity

406.1 PURPOSE AND SCOPE

The protection and integrity of a crime scene is of the utmost importance for the successful apprehension of criminals and successful prosecution. The integrity of a disaster scene is equally as critical for the protection of life and property and investigation by proper authorities.

406.2 CRIME SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident generally is responsible for the preservation of the scene. Officers shall also consider officer safety and public safety issues, including rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity of the crime/disaster scene the officer shall continue until relieved by a supervisor.

406.2.1 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

- (a) Ensure that no suspects are still within the area.
- (b) Broadcast emergency information, including all requests for additional assistance.
- (c) Provide first aid to injured parties if it can be done safely.
- (d) Secure the inner perimeter with crime scene tape.
- (e) Protect items of apparent evidentiary value.
- (f) Start a chronological log, noting critical times and personnel allowed access.

406.2.2 MEDIA ACCESS

Authorized and bona fide members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions:

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
 1. Reasonable effort should be made to provide media representatives with access to the command post nearest the location providing it will not interfere with emergency operations or a criminal investigation.
 2. Whenever the presence of media or other aircraft pose a threat to public or officer safety, or significantly hampers incident operations, the field supervisor

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should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Patrol Sergeant. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (Federal Aviation Regulations § 91.137).

- (c) No member of this department shall be subjected to media visits or interviews without the consent of the involved employee.
- (d) Media interviews with individuals who are in custody shall not be permitted without the approval of the Chief of Police and the expressed consent of the person in custody.
- (e) Media representatives will not be allowed to enter the outer or inner perimeter of a crime scene while an incident or investigation is in progress.

A tactical operation should be handled in the same manner as a crime scene, except that the news media should be permitted within the outer perimeter of the scene, subject to any restrictions as set forth by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media, but every effort shall be made to keep them well informed of the progress of the operation. All comments and statements to the media shall be coordinated through a supervisor or the department Public Information Officer.

406.2.3 TEMPORARY FLIGHT RESTRICTIONS

Crime and disaster scenes can sometimes attract news helicopters and other sightseeing aircraft. Whenever such aircraft pose a threat to public safety due to congestion or when the noise levels caused by loitering aircraft hamper incident operations, the field supervisor should consider requesting Temporary Flight Restrictions (TFR) through the Federal Aviation Administration (Federal Aviation Regulations § 91.137). All requests for TFR should be routed through the Patrol Sergeant.

406.2.4 EXECUTION OF HEALTH ORDERS

Any sworn member of this department is authorized to execute and enforce lawful orders of the local health officer issued for the purpose of preventing the spread of any contagious, infectious or communicable disease.

406.3 SEARCHES AT CRIME OR DISASTER SCENES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims and determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until proper authority for the search is obtained.

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406.3.1 AUTHORITY TO SEARCH

In order to search, officers must have probable cause to believe that a crime has occurred and evidence of the crime will be found at the location. Absent consent, a search warrant is generally required to authorize continued search once a scene is stabilized.

406.3.2 CONSENT

Any person who has an expectation of privacy has standing to object to a search. That may include anyone with a property interest in the location, as well as any resident, tenant, or guest, depending on the circumstances. It may not be possible to identify everyone with standing to object, and from whom consent must be obtained, at the early stages of the investigation. Officers should obtain consent to search from authorized individuals where possible, but should also consider obtaining consent and a search warrant in the case of serious crimes or major investigations.

Ride-Along Policy

410.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process and hours of operation for the Ride-Along Program.

410.1.1 ELIGIBILITY

The Milwaukie Police Department Ride-Along Program is offered to residents, students and those employed within the City. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under the age of 15-years
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

410.1.2 AVAILABILITY

The Ride-Along Program is available on most days of the week.

410.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the sergeant as the Ride Along Coordinator. The participant will complete a ride-along waiver form and submitted to Criminal History Check (CCH). Information requested will include a valid ID or Oregon driver's license, address, and telephone number. If the participant is under 18-years of age, a parent/guardian must be present to complete the Ride-Along Form.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

410.2.1 PROGRAM REQUIREMENTS

Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Cadets, Explorers, RSVP, Chaplains, Reserves, police applicants, and all others with approval of the Patrol Sergeant.

An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the officer's vehicle at a given time.

Ride-along requirements for police cadets are covered in Policy Manual § 1048, "Police Cadet Program."

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410.2.2 SUITABLE ATTIRE

Any person approved to ride along is required to be suitably dressed in collared shirt, blouse or jacket, slacks and shoes. Sandals, tank tops, and ripped or torn blue jeans are not permitted. The Operations Sergeant or field supervisor may refuse a ride along to anyone not properly dressed.

410.2.3 PEACE OFFICER RIDE-ALONGS

Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty officers without the expressed consent of the Patrol Sergeant. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK

All Ride-along applicants are subject to a criminal history check. The criminal history check will include a local records check, and NCIC, CCH, and DMV records checks via LEDS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the City of Milwaukie Police Department). The printed inquiry responses will be attached to the request and forwarded to the Ride Along Coordinator or the on-duty Operations Sergeant who will approve or disapprove the ride-along and schedule the appointment.

410.3 OFFICER'S RESPONSIBILITY

The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

The Sergeant assigned as the Ride Along Coordinator is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the assigned form shall be returned to the Ride Along Coordinator with any comments which may be offered by the officer.

410.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

- (a) The ride-along will follow the directions of the officer
- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment
- (c) The Officer may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties

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- (d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety
- (e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen
- (f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

Hazardous Material Response

412.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. The following is to be the policy of this department.

412.1.1 HAZARDOUS MATERIAL DEFINED

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed. See Oregon Revised Statutes 453.005(7) for a complete list.

412.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill, or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Attempt to identify type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from person transporting).
- (b) Notify Fire Department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of immediate area and surrounding areas dependent on substance.

412.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain of command to the Commanding Officer. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report.

412.3.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the Fire Department.

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Hazardous Material Response

The employee or employees supervisor if the employee is unable, will complete a Workers Compensation form if an injury is diagnosed Oregon Revised Statutes 656.265. If an injury is not apparent but exposure to a hazardous substance is possible, the employee will complete an incident report indicating the circumstances of the event and the potential of an exposure.

Hostages and Barricaded Suspects

414.1 PURPOSE AND SCOPE

Hostage situations and barricaded suspects present unique problems for agencies. The protection of the public and law enforcement personnel is of the utmost importance. Proper planning and training will tend to reduce the risks involved with these incidents.

414.1.1 DEFINITIONS

Hostage - A person held by one party in a conflict as security so that specified terms will be met by the opposing party.

Barricaded Suspect - A person who takes a position of cover or concealment or maintains a position in a structure and who resists capture by law enforcement personnel. A barricaded suspect may be armed or suspected of being armed.

414.2 HOSTAGE NEGOTIATIONS

Promises of immunity or leniency and payment of ransom demands are rarely effective and will generally not be offered to barricaded suspects. Trained hostage negotiators, however, will be permitted to exercise flexibility in each situation based upon the circumstances presented and consistent with their training.

Personnel involved in barricaded/hostage situations are urged to exercise patience and extreme caution. The use of deadly force against any armed suspect will be governed by Policy Manual § 300, with particular regard directed toward the safety of hostages.

414.3 FIRST RESPONDER RESPONSIBILITY

Until the Incident Commander has been designated, the first officer on the scene of an actual or potential hostage/barricade situation should consider addressing the following as time and resources permit:

- (a) Attempt to avoid confrontation in favor of controlling and containing the situation until the arrival of trained personnel and/or trained hostage negotiation personnel
- (b) Notification of tactical and hostage negotiation personnel
- (c) Notification of appropriate persons within and outside the agency, such as command officers, dog handlers, or helicopter pilots
- (d) Establishment of inner and outer perimeters
- (e) Evacuation of bystanders and injured persons
- (f) Establishment of central command post and appropriate chain of command
- (g) Request for ambulance, rescue, fire and surveillance equipment
- (h) Authorization for news media access and news media policy
- (i) Pursuit/surveillance vehicles and control of travel routes

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414.4 REPORTING

Unless otherwise relieved by a supervisor, the initial officer at the scene is responsible for completion of reports or coordination of reports for the hostage/barricade incident.

Response to Bomb Calls

416.1 PURPOSE AND SCOPE

These guidelines have been prepared to assist officers in their initial response to incidents involving explosives, explosive devices, or explosion/bombing incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety shall always be the primary consideration.

416.2 FOUND EXPLOSIVES/SUSPECT DEVICES

When handling an incident involving a suspected explosive device, the following guidelines should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging. The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (b) A minimum perimeter of 300 feet should be established around the location of the device. An access point should be provided for support personnel.
- (c) As much information as is available should be promptly relayed to the Patrol Sergeant including:
 1. The stated threat.
 2. Exact comments.
 3. Time of discovery.
 4. Exact location of the device.
 5. Full description (e.g., size, shape, markings, construction) of the device.
- (d) The device should not be touched or moved except by qualified bomb squad personnel.
- (e) All equipment within 300 feet of the suspected device capable of producing radio frequency energy should be turned off. This includes two-way radios, cell phones and other personal communication devices.
- (f) Consideration should be given to evacuating any buildings near the device.
- (g) A search of the area should be conducted for secondary devices or other objects that are either hazardous or foreign to the area and a perimeter should be established around any additional suspicious device found.

Explosive or military ordnance of any type should be handled only by the bomb squad or military ordnance disposal team.

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416.3 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic incidents, a rapid response may help to minimize injury to victims, contamination of the scene by gathering crowds or additional damage by resulting fires or unstable structures. Whether the explosion was the result of an accident or a criminal act, the responding officers should consider the following actions:

- Assess the scope of the incident, including the number of victims and extent of injuries.
- Assist with first aid (Fire Department has primary responsibility).
- Assist with evacuation of victims (Fire Department has primary responsibility).
- Identify and take appropriate actions to mitigate scene hazards such as collapsed structures, blood borne pathogens, hazardous materials and secondary explosive devices.
- Request additional resources as needed.
- Identify witnesses.
- Preserve evidence.

416.3.1 NOTIFICATIONS

When an explosion has occurred, the following people shall be notified as soon as practicable if their assistance is needed:

- (a) Fire Department
- (b) Emergency Medical assistance
- (c) Explosive Disposal Unit
- (d) Additional officers
- (e) Field supervisor
- (f) Patrol Sergeant
- (g) Detectives
- (h) Forensic Science Services

416.3.2 CROWD CONTROL

Only authorized personnel with a legitimate need shall be permitted access to the scene. Spectators and other unauthorized individuals shall be excluded to a safe distance as is reasonably practicable given the available resources and personnel.

416.3.3 SCENE OF INCIDENT

As in any other crime scene, steps should immediately be taken to preserve the scene. The scene could extend over a long distance. Evidence may be imbedded in nearby structures or hanging in trees and bushes.

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Response to Bomb Calls

416.4 BOMB THREATS RECEIVED AT POLICE FACILITY

This procedure shall be followed should a bomb threat call be received at the police facility.

416.4.1 BOMB THREATS RECEIVED BY TELEPHONE

The following questions should be asked if a bomb threat call is received at the Police Department:

- When is the bomb going to explode?
- Where is the bomb?
- What kind of bomb is it?
- What does it look like?
- Why did you place the bomb?
- Who are you? (to avoid possible termination of the call this should be the last question asked)

Attempt to keep the caller on the line as long as possible and obtain expanded answers to these five basic questions.

During this time, document the following:

- Time of the call.
- Exact words of the person as accurately as possible.
- Estimated age and gender of the caller.
- Speech patterns and/or accents.
- Background noises.

If the incoming call is received at the police facility on a recorded line, steps shall be taken to ensure that the recording is preserved in accordance with current department evidence procedures.

416.4.2 RESPONSIBILITIES

The employee handling the call shall ensure that the Patrol Sergeant is immediately advised and fully informed of the details. The Patrol Sergeant will then direct and assign officers as required for coordinating a general building search or evacuation as he/she deems appropriate.

Civil Commitments

418.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may place an individual under protective custody for civil commitment (ORS 426.228).

418.2 AUTHORITY

An officer may take a person into custody when the officer has probable cause to believe the person is dangerous to him/herself or to any other person and is in need of immediate care, custody or treatment for mental illness (ORS 426.228(1)).

An officer shall also take a person into custody at the direction of the community mental health program director when the director has probable cause to believe the person is imminently dangerous to him/herself or to another person. The director is mandated to prepare a report for the officer to deliver to the treating licensed independent practitioner (ORS 426.228(2)).

The officer shall transport the person in custody to the nearest facility approved by the Oregon Health Authority (OHA) or will transfer custody of the person to a mental health representative authorized under ORS 426.233(3).

If, upon delivery of the person to the facility, the licensed independent practitioner finds the person is not in need of emergency care or treatment for mental illness, the person is to be released from custody. The officer or the program director shall return the person to the place where he/she was taken into custody, unless the person declines that service.

418.2.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a civil commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the individual so desires, the officers should:

- (a) Transport the individual to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a civil commitment.
- (b) If at any point the individual changes his/her mind regarding voluntary evaluation, officers should proceed with the civil commitment, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

418.2.2 RESTRAINTS

If the patient is violent or potentially violent, the officer will notify the staff of this concern. The staff member in charge will have discretion as to whether soft-restraints will be used. If these restraints are desired, the officer will wait while they are being applied to help provide physical control of the patient, if needed.

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418.2.3 MENTAL HEALTH DOCUMENTATION

The officer shall also provide a verbal summary to an emergency department staff member regarding the circumstances leading to the involuntary detention.

418.2.4 SECURING OF WEAPONS

If a receiving and secured facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearm shall be secured in the appropriate gun locker at the facility or in the police unit.

418.3 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a civil commitment should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the cause and nature of the individual's action or stated intentions (e.g., information from LEDS).
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Available community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Civil commitments should be preferred over arrest for individuals with mental health issues, who are suspected of committing minor crimes or creating other public safety issues.

418.4 TRANSPORTATION

When transporting any individual for a civil commitment, the transporting officer should have LOCOM notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in a patrol vehicle and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Patrol Sergeant approval is required before transport commences.

418.4.1 RETURN OF CONFISCATED FIREARMS AND WEAPONS

Any weapon taken into custody for safekeeping under section 418.5 will be returned to the lawful owner upon request unless the seizing officer or the assigned detective has placed a hold on the weapon pending a petition for retention or a petition has been granted, or is pending before the court. Once the petition has been ruled on by the court, the weapon will be released or disposed of in accordance with the court order.

Prior to releasing any weapon, Property personnel shall be required to ensure the person is legally eligible to possess the weapon.

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In the event that no timely petition is filed with the court or the court denies such a petition, the seized weapon shall be eligible for release to the lawful owner or other authorized individual unless such weapon is evidence in a criminal matter or there is other independent good cause to continue to retain custody of the weapon.

418.5 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking voluntary treatment, the officer should provide the staff member with the written application for a civil commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

Cite & Release Policy

420.1 PURPOSE AND SCOPE

Pursuant to Oregon Revised Statutes 133.055, officers may issue a criminal citation to a person if the officer has probable cause to believe that the person has committed a misdemeanor or has committed a felony that is subject to misdemeanor treatment under Oregon Revised Statutes 161.705.

420.2 STATUTORY REQUIREMENTS

Officers will cite offenders into the court before which they would appear if arrested. The citations must specify the time, date and court of appearance, and the court date shall not be later than 30 days after the citation was issued (Oregon Revised Statutes 133.055 and 133.060).

420.2.1 DISCRETION TO ARREST

While this department recognizes the statutory power of peace officers to make arrests throughout the state officers are encouraged to use sound discretion in the enforcement of the law. On-duty arrests will generally be made outside the boundaries of the city only in cases of hot and/or fresh pursuit, or while following up on crimes committed within the city or while assisting another agency. On-duty officers who discover criminal activity outside the jurisdiction of the City should consider contacting the agency having primary jurisdiction, when circumstances permit, before attempting an apprehension.

Off-duty officers observing criminal activity should generally take enforcement action only when it reasonably appears that imminent risk to life or property exists and the reasonable opportunity does not exist to contact the law enforcement agency with primary jurisdiction. In such situations the involved officers shall clearly identify him/herself as a peace officer.

420.3 DEPARTMENT PROCEDURE

The following procedure will be followed to comply with this law.

420.3.1 FIELD CITATIONS

Upon obtaining satisfactory identification and verifying that there are no outstanding warrants for the individual, officers may issue citations to a person upon probable cause to believe that the person has committed a misdemeanor or has committed a felony subject to misdemeanor treatment under ORS 161.705, unless there is a disqualifying reason making the person ineligible for citation (ORS 133.055).

420.3.2 FINGERPRINTS AND PHOTOGRAPHS

In certain cases, it may be appropriate to fingerprint and photograph persons prior to citing and releasing them. In such cases, the person shall be taken into custody and transported to the department for that purpose, after which, they may be issued a citation and released.

420.3.3 DISQUALIFYING CIRCUMSTANCES

In certain circumstances, cite and release may not be appropriate. Those situations include:

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- (a) Oregon Revised Statutes 133.055 specifically exempts persons arrested for assault or menacing at the scene of a domestic violence complaint. Those persons must be physically taken into custody and shall be transported and lodged at the jail.
- (b) The person has outstanding warrants for his or her arrest.
- (c) The person cannot satisfactorily identify themselves.
- (d) The investigation or prosecution of the offense or offenses for which the person was arrested, or the investigation or prosecution of any other offense or offenses, would be jeopardized by the immediate release of the person arrested.
- (e) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.
- (f) The person has indicated they will not appear or there is other reason to believe that the person would not appear at the time and place specified in the citation. The basis for this determination shall be specifically stated such as:
 - 1. Previous history of failure to appear is on record.
 - 2. the person lacks ties to the area, such as a residence, job or family.
 - 3. The person initially provided a false name or identification or has previously used false names to avoid prosecution.
- (g) The person arrested is so intoxicated that he/she could be a danger to himself/herself or to others. (Release may occur as soon as this condition no longer exists).
- (h) Unusual circumstances lead the officer to conclude that the suspect should be held for further investigation.

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted in the custody report.

420.3.4 INSTRUCTIONS TO CITED PERSON

The citing officer shall call attention to the time and place for appearance and take any other steps he/she deems necessary to ensure that the defendant understands his/her written obligation to appear.

420.4 CITATION RELEASE ON WARRANTS

If the offense is not excluded under Oregon Revised Statutes 133.055, the court may authorize an officer to issue and serve a criminal citation in lieu of arrest (Oregon Revised Statutes 133.110). Officers should not issue citations under the following circumstances:

- (a) The crime cited in the warrant involves violence.
- (b) The crime cited in the warrant involves a firearm.
- (c) The crime cited in the warrant involves resisting arrest.

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- (d) The crime cited in the warrant involves giving false information to an officer.
- (e) The person arrested is a danger to himself or herself or others due to intoxication or being under the influence of drugs or narcotics.
- (f) The person requires medical examination or medical care or was otherwise unable to care for his or her own safety.
- (g) The person has other ineligible charges pending against him/her.
- (h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.
- (i) The person indicated they will not appear if released on a citation.
- (j) The person cannot provide satisfactory evidence of personal identification.
- (k) The warrant of arrest does not indicate that the person is eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this section.

420.5 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the City of Milwaukie City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Detective Division for further action.

420.6 REQUESTING CASE NUMBERS

Traffic infractions may be issued without case numbers and the necessary information can be documented on the reverse side of the Uniform Traffic Citation. For traffic crimes, local ordinance violations, state misdemeanors and qualified felonies, and all citations subsequent to the service of an arrest warrant, case numbers will be drawn. If the incident involves a citation issued subsequent to the service of a local arrest warrant where an Milwaukie Police Department case number already exists, that case number shall be used.

Arrest or Detention of Foreign Nationals

422.1 PURPOSE AND SCOPE

Article 36 of the Vienna Convention on Consular Relations, sets forth certain rights of foreign nationals from member countries when arrested, detained or imprisoned by law enforcement officials in this country. This section provides direction to officers when considering a physical arrest or detention of a foreign national. All foreign service personnel shall be treated with respect and courtesy, regardless of the level of established immunity. As noted herein, the United States is a party to several bilateral agreements that obligate our authorities to notify the consulate upon the person's detention, regardless of whether the detained person(s) request that his or her consulate be notified. The list of specific countries that the United States is obligated to notify is listed on the US Department of State website.

422.1.1 DEFINITIONS

Foreign National - Anyone who is not a citizen of the United States (U.S.). A person with dual-citizenship, U.S. and foreign, is not a foreign national.

Immunity - Refers to various protections and privileges extended to the employees of foreign governments who are present in the U.S. as official representatives of their home governments. These privileges are embodied in international law and are intended to ensure the efficient and effective performance of their official "missions" (i.e., embassies, consulates, etc.) in foreign countries. Proper respect for the immunity to which an individual is entitled is necessary to ensure that U.S. diplomatic relations are not jeopardized and to maintain reciprocal treatment of U.S. personnel abroad. Although immunity may preclude U.S. courts from exercising jurisdiction, it is not intended to excuse unlawful activity. It is the policy of the U.S. Department of State's Office of Foreign Missions (OFM) that illegal acts by Foreign Service personnel should always be pursued through proper channels. Additionally, the host country's right to protect its citizens supersedes immunity privileges. Peace officers may intervene to the extent necessary to prevent the endangerment of public safety or the commission of a serious crime, regardless of immunity claims.

422.2 ARREST OR DETENTION OF FOREIGN NATIONALS

Officers should take appropriate enforcement action for all violations observed, regardless of claims of diplomatic or consular immunity received from violators. A person shall not, however, be subjected to in-custody arrest when diplomatic or consular immunity is claimed by the individual or suspected by the officer, and the officer has verified or reasonably suspects that the claim of immunity is valid.

422.3 LEVELS OF IMMUNITY

The specific degree of immunity afforded to foreign service personnel within the U.S. is directly related to their function and position in this country.

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422.3.1 DIPLOMATIC AGENTS

Diplomatic agents (e.g., ambassadors and United Nations representatives) are afforded the highest levels of immunity. They are exempt from arrest or detention and are immune from all criminal (and most civil) prosecution by the host state. The family members of diplomatic agents enjoy these same immunities.

422.3.2 CONSULAR OFFICERS

Consular officers are the ranking members of consular posts who perform various formal functions on behalf of their own governments. Typical titles include consul general, consul, and vice consul. These officials are immune from arrest or detention, except pursuant to a felony warrant. They are only immune from criminal and civil prosecution arising from official acts. Official acts immunity must be raised as an affirmative defense in the court jurisdiction, and its validity is determined by the court. Under this defense, the prohibited act itself must have been performed as an official function. It is not sufficient that the consular agent was on-duty or in an official capacity at the time of the violation. The family members of consular officers generally enjoy no immunity, however, any family member who enjoys a higher level of immunity is issued an identification card by Department of State (DOS) enumerating any privileges or immunities on the back of the card. Examples are consular officers and family members from Russia or China.

422.3.3 HONORARY CONSULS

Honorary consuls are part-time employees of the country they represent and are either permanent residents of the U.S. or U.S. nationals (unlike career consular officers, who are foreign nationals on temporary assignment to the U.S.). Honorary consuls may be arrested and detained; limited immunity for official acts may be available as a subsequent defense. Family members have no immunity.

422.4 IDENTIFICATION

All diplomatic and consular personnel who are entitled to immunity are registered with the Department of State and are issued distinctive identification cards by the Department of State Protocol Office. These cards are the best means of identifying Foreign Service personnel. They include a photograph, identifying information, and, on the reverse side, a brief description of the bearer's immunity status. Unfortunately, these identification cards are not always promptly issued by the Department of State. In addition to the Department of State identification card, Foreign Service personnel should also have a driver license issued by the Department of State Diplomatic Motor Vehicle Office (DMVO), which in most circumstances replaces the operator's license issued by the state.

422.4.1 VEHICLE REGISTRATION

Vehicles that are owned by foreign missions or Foreign Service personnel and their dependents are registered with the Department of State OFM and display distinctive red, white, and blue license plates. Vehicles assigned to diplomatic or consular officers will generally have license plates labels with the words "diplomat" or "consul." Vehicles owned by honorary consuls are not issued OFM license plates; but may have Oregon license plates with an "honorary consul"

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label. Driver's identity or immunity status should not be presumed from the type of license plates displayed on the vehicle. The status of an OFM license plate should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state, if the officer has reason to question the legitimate possession of the license plate.

422.5 ENFORCEMENT PROCEDURES

The following procedures provide a guideline for handling enforcement of foreign nationals:

422.5.1 CITABLE OFFENSES

An enforcement document shall be issued at the scene for all violations warranting such action, regardless of the violator's immunity status. The issuance of a citation is not considered an arrest or detention under current Department of State guidelines. Whenever the equivalent of a notice to appear is issued to an immunity claimant, the following additional procedures shall be followed by the arresting officer:

- (a) Identification documents are to be requested of the claimant
- (b) The title and country represented by the claimant are to be recorded on the back of the officer's copy of the Notice to Appear for later reference. Do not include on the face of the notice to appear
- (c) The violator shall be provided with the appropriate copy of the notice to appear

422.5.2 IN-CUSTODY ARRESTS

Diplomatic agents and consular officers are immune from arrest or detention (unless they have no identification and the detention is to verify their diplomatic status). Proper identification of immunity claimants is imperative in potential in-custody situations. Claimants who are not entitled to immunity shall be placed in custody in accordance with the provisions outlined in Policy Manual § 422.6 of this policy.

A subject who is placed under arrest and claims diplomatic or consular immunity shall not be physically restrained before verification of the claim (unless restraint is necessary for the protection of the officer or others.)

A supervisor shall be promptly notified and should respond to the scene when possible.

Field verification of the claimant's identity is to be attempted as follows:

- (a) Identification cards issued by the Department of State, Protocol Office, are the only valid evidence of diplomatic or consular immunity. The following types of identification cards are issued: Diplomatic (blue bordered), Consular (red bordered), and Official (green bordered), The Department of State identification cards are 3-3/4 inch by 1-1/2 inch and contain a photograph of the bearer.
- (b) Initiate telephone verification with the Department of State. Newly arrived members of diplomatic or consular missions may not yet have official Department of State identity documents. Verify immunity by telephone with the Department of State any time an

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individual claims immunity and cannot present satisfactory identification, the officer has reason to doubt the claim of immunity, or there is a possibility of physical arrest. Law enforcement personnel should use the following numbers in order of preference:

| | |
|---|------------------------------|
| Office of Foreign Missions | Diplomatic Security Service |
| San Francisco, CA | 915 Second Avenue, Room 3410 |
| (415) 744-2910, Ext.. 22 or 23 | Seattle, WA 98174 |
| (415) 744-2913 FAX | (206) 220-7721 |
| (0800-1700 PST) | (206) 220-7723 FAX |
| Office of Foreign Missions | Department of State |
| Diplomatic Motor Vehicle Office | Diplomatic Security Service |
| Washington D.C. | Command Center |
| (202) 895-3521 (Driver License Verification) or | Washington D.C. |
| (202) 895-3532 (Registration Verification) | (202) 647-7277 |
| (202) 895-3533 FAX | (202) 647-1512 |
| (0815-1700 EST) | (Available 24 hours) |
| | (202) 647-0122 FAX |

Members of diplomatic or consular missions also may have other forms of identification. These include identification cards issued by Office of Emergency Services, local law enforcement agencies, the foreign embassy, or consulate; driver licenses issued by Department of State; and, Department of State license indicia on the vehicle. All these items are only an indication that the bearer may have some form of immunity.

Subjects verified through the above procedures as being officials entitled to immunity (diplomatic agent, consular officers and consular staff and family members from countries with which the U.S. has special agreements) may not be arrested. The procedures below shall be followed. These procedures should also be used in the event immunity cannot be verified, but another form of identification indicates that immunity is probable.

If the release of the violator will not create an additional hazard, adequate information to properly identify the violator shall be obtained then the official shall be released. A supervisor's approval for the release shall be obtained whenever possible. The necessary release documents and/or a Certificate of Release form should only be issued under the proper conditions.

If the violator appears to have been driving while under the influence, field sobriety tests, including Preliminary Alcohol Screening (PAS) device tests and chemical tests should be offered and

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obtained whenever possible, however, these tests cannot be compelled. The subject shall not be permitted to drive. A supervisor's approval for release shall be obtained whenever possible and alternative transportation should be arranged.

All facts of the incident shall be documented in accordance with this policy in a Driving Under the Influence (DUI) Arrest-Investigation Report, Arrest-Investigation Report and/or any other relevant Report form. Notwithstanding the field release of the subject, prosecution is still appropriate and should be pursued by the command concerned. The Department of State will take appropriate sanctions against errant foreign service personnel, even where prosecution is not undertaken by the agency.

422.6 TRAFFIC COLLISIONS

Persons involved in traffic collisions who possess a Department of State OFM Diplomatic Driver License, issued by the DMVO, shall have "D" coded in the license "class" box of the Traffic Collision Report. If subsequent prosecution of the claimant is anticipated, the claimant's title, country, and type of identification presented should be recorded for future reference. Issuance of a citation to, or arrest of, an immunity claimant at the accident scene should be handled in accordance with the procedures specified in Policy Manual § 422.5 of this chapter.

422.6.1 VEHICLES

Vehicles, which are owned by subjects with full immunity, may not be searched, stored, or impounded without the owner's permission. (Such permission may be assumed if the vehicle has been stolen.) These vehicles may, however, be towed the necessary distance to remove them from obstructing traffic or creating any other hazard.

422.6.2 REPORTS

A photocopy of each traffic collision report involving an identified diplomat and/or immunity claimant shall be forwarded to the office of the Chief of Police within 48 hours whether or not the claim is verified. The words "Immunity Claim" shall be marked on the photocopy, together with a notation of the claimant's title, country, and type of identification presented (if applicable). In addition to the report, a follow-up cover memorandum should be submitted if the violation was flagrant, if the claimant was uncooperative, or if there were any other unusual aspects of the enforcement contact that should be reported to the Department of State for further action. The Patrol Sergeant/Supervisor apprised of the incident/accident shall also send a copy of all documents and reports submitted by the investigating officer along with any supervisor's notes, materials and/or logs to the Chief of Police's office within 48 hours of the incident. The Chief of Police's office will check to ensure that notification of Department of State and all necessary follow-up occur.

422.7 FOREIGN NATIONALS WHO DO NOT CLAIM IMMUNITY

Officers may only arrest foreign nationals not claiming diplomatic or consular immunity under the following circumstances:

- (a) There is a valid warrant issued for the person's arrest

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- (b) There is probable cause to believe that the foreign national has violated a federal criminal law, a state law, or a local ordinance
- (c) Officers shall not arrest foreign nationals solely for alleged undocumented entry into the United States.

Because undocumented presence is strictly a federal civil violation, it is only enforceable by federal officers therefore officers of this department shall not arrest foreign nationals solely for undocumented presence. Officers shall not stop or detain persons solely for determining immigration status.

422.7.1 ARREST PROCEDURE

Whenever an officer physically arrests or detains an individual for criminal investigation and the officer reasonably believes the person to be a foreign national, the officer shall inquire to determine the person's citizenship.

This procedure applies to detentions of more than two hours. An inquiry is not required if the individual is detained less than two hours for criminal investigation.

If the individual indicates that he/she is other than a U.S. citizen, the officer shall advise the individual that he/she has a right to have the nearest appropriate embassy or consulate notified of the arrest/detention.

If the individual requests such notification, the officer shall contact LOCom (Lake Oswego Communications) as soon as practical and request the appropriate embassy/consulate be notified. Officers shall provide LOCom (Lake Oswego Communications) with the following information concerning the individual:

- Country of citizenship
- Full name of individual, including paternal and maternal surname if used
- Date of birth or age
- Current residence
- Time, date, place, location of incarceration/detention, and the 24-hour telephone number of the place of detention if different from the Department itself
- If the foreign national claims citizenship of one of the countries listed by the US Department of State as requiring mandatory consular notification, officers shall provide LOCom (Lake Oswego Communications) with the information above as soon as practical whether or not the individual desires the embassy/consulate to be notified. This procedure is critical because of treaty obligations with the particular countries. The list of mandatory notification countries and jurisdictions can be found on the US Department of State [Website](#).

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Officers should attempt to provide LOCom (Lake Oswego Communications) with request for embassy/consulate notification at the same time they provide incarceration information in order to expedite these notifications.

422.7.2 DOCUMENTATION

Officers shall document on the face page and in the narrative of the appropriate Arrest-Investigation Report the date and time LOCOM was notified of the foreign national's arrest/detention and his/her claimed nationality.

HASTY TEAM, HOSTAGE /VICTIM RESCUE

424.1 PURPOSE AND SCOPE

Violence in schools, workplaces and other locations by any individual or group of individuals presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers as they make decisions in these rapidly unfolding and tense situations.

424.2 POLICY

The policy of this department in dealing with the crisis situation shall be:

- (a) To obtain and maintain complete operative control of the incident.
- (b) If time allows, explore every reasonably available source of intelligence regarding the circumstances, location, and suspect(s) in the incident.
- (c) To attempt, by practicable means, to attain any tactical advantage over the responsible individual(s).
- (d) To attempt, whenever feasible, a negotiated surrender of the suspect(s) and release of the hostages through the expertise of the members of this department and others.
- (e) When an emergency situation exists, neutralize the threat as rapidly as reasonably possible to minimize injury and loss of life.

Nothing in this policy shall preclude the use of necessary force, deadly or otherwise, by members of this department in protecting themselves or others from death or serious injury.

424.3 PROCEDURE

If violent acts by the suspect continue, and lives are in imminent danger, a decision to advance on the suspect may be made by the officers at the scene. This decision should include the following considerations:

- (a) If the officer is alone, can the officer wait for two or more officers to assist? It is recommended that any advance on a suspect be made in teams of two or more. Officers should balance their minimum necessary team members and resources with how urgent it is to intervene, based on the immediate risk which exists or the actual harm which is occurring and make their decisions based on the priority of life, prioritizing innocent victims at the highest level.
- (b) If time allows, develop and implement an immediate tactical plan and communicate this plan to the supervisor and other first responders.
- (c) Consider deploying rifles, shields, breaching devices such as a battering ram or bolt cutter, control devices and any other appropriate tools that will provide the a tactical advantage.

Reporting Police Activity Outside of Jurisdiction

426.1 PURPOSE AND SCOPE

This policy provides general guidelines for reporting police activity while on or off-duty and occurring outside the jurisdiction of Milwaukee Police Department.

426.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE CITY

When an officer is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Patrol Sergeant. If the request is of an emergency nature, the officer shall notify LOCOM before responding and thereafter notify a supervisor as soon as practical.

426.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE CITY

Any on-duty officer, who engages in law enforcement activities of any type outside the immediate jurisdiction of Milwaukee Police Department shall notify his or her supervisor or the Patrol Sergeant at the earliest possible opportunity. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify the Patrol Sergeant as soon as practical.

The supervisor shall determine if a case report or other documentation of the officer's activity is required. The report or other documentation shall be forwarded to the officer's Captain.

Immigration Violations

428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Milwaukie Police Department relating to immigration and interacting with federal immigration officials.

428.2 POLICY

It is the policy of the Milwaukie Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

428.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or Oregon constitutions.

428.3.1 BASIS FOR CONTACT

Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention, or arrest (Oregon Revised Statutes 181.850).

428.3.2 SWEEPS

The Milwaukie Police Department does not conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

When enforcement efforts are increased in a particular area, equal consideration should be given to all suspected violations and not just those affecting a particular race, ethnicity, age, gender, sexual orientation, religion, socioeconomic status or other group.

The disposition of each contact (e.g., warning, citation, arrest), while discretionary in each case, should not be affected by such factors as race, ethnicity, age, gender, sexual orientation, religion or socioeconomic status.

428.3.3 ICE REQUEST FOR ASSISTANCE

If a specific request is made by ICE, this department will provide available support services, such as traffic control or peacekeeping efforts, during the federal operation only as necessary to provide for the safety of persons and property if not adequately provided by ICE .

Members of this department should not participate in such federal operations as part of any detention team unless it is in direct response to a request for assistance on a temporary basis

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or for officer safety. Any detention by a member of this department should be based upon the reasonable belief that an individual is involved in criminal activity.

428.3.4 IDENTIFICATION

Whenever any individual is reasonably suspected of an offense (infraction, violation, misdemeanor or felony), the investigating officer should take reasonable steps to establish the person's identity by way of valid identification or other reliable sources.

If an individual would have otherwise been released on a citation for a crime, the person should be taken to the station and given a reasonable opportunity to verify his/her true identity (e.g., telephone calls). If the person's identity is thereafter reasonably established, the original citation release should be completed without consideration of immigration status.

428.3.5 ARREST

Pursuant to Oregon Revised Statutes 181.850, no law enforcement agency of the State of Oregon or of any political subdivision of the state shall use agency moneys, equipment, or personnel for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship present in the United States in violation of federal immigration laws. However, a law enforcement agency may arrest any person who:

- (a) Is charged by the United States with a criminal violation of federal immigration laws under Title II of the Immigration and Nationality Act or 18 United States Code 1015, 1422 to 1429, or 1505; and,
- (b) Is subject to arrest for the crime pursuant to a warrant of arrest issued by a federal magistrate

If an officer intends to take enforcement action for any other crime and the individual is unable to reasonably establish his or her true identity, the officer may take the person into custody on the suspected criminal violation (Oregon Revised Statutes 807.570, 133.235, and 133.310), if pertinent to the circumstances). A field supervisor shall approve all such arrests.

428.3.6 BOOKING

If the officer is unable to reasonably establish an arrestee's identity, the individual may, upon approval of a supervisor, be booked into jail for the suspected criminal violation and held for bail.

If a person is detained pursuant to the authority of Oregon Revised Statutes 807.570, that person may be detained for such time as is reasonably necessary to investigate and verify the person's identity.

428.3.7 NOTIFICATION OF IMMIGRATION AND CUSTOMS ENFORCEMENT

If an officer believes that an individual taken into custody for a felony is also an undocumented alien, and the individual is not going to be booked into county jail after he/she is formally booked, the arresting officer shall cause ICE to be notified for consideration of an immigration hold.

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If an officer believes that an individual taken into custody for an offense other than a felony is also an undocumented alien and there is no intention to transport the person to the county jail after he/she is formally booked, ICE may be notified for consideration of an immigration hold. In making the determination whether to notify ICE in such circumstances, the officer should, in consultation with a supervisor, consider the totality of circumstances of each case, including, but not limited to:

- (a) Seriousness of the offense
- (b) Community safety
- (c) Potential burden on ICE
- (d) Impact on the immigrant community

Generally, officers will not need to notify ICE when booking arrestees at the county jail. Immigration officials routinely interview suspected undocumented aliens who are booked into the county jail on criminal charges and notification will be handled according to jail operation procedures.

428.4 DETENTIONS

This department does not participate in routine immigration investigation and enforcement activities (ORS 181A.820).

An officer should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation. If the violation is a criminal violation, the officer may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, he/she may continue the detention and may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)).

An officer is encouraged to forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities, or the potential to obstruct a separate investigation outweigh the need for the detention.

An officer may arrest any person who is the subject of an arrest warrant issued by a federal magistrate for a criminal violation of federal immigration laws (ORS 181A.820).

An officer should notify a supervisor as soon as practicable whenever an individual is being detained or arrested for a criminal immigration violation.

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Immigration Violations

428.4.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has detained an individual and established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see the Law Enforcement Authority Policy).

428.5 TRAINING

The Administrative Captain should ensure officers receive training on this policy.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.

Emergency Utility Service

430.1 PURPOSE AND SCOPE

The City Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

430.1.1 BROKEN WATER LINES

The City's responsibility ends at the water meter; any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility. Public Works can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on the City side of the meter, emergency personnel should be called as soon as practical by LOCom (Lake Oswego Communications).

430.1.2 ELECTRICAL LINES

City Public Works does not maintain electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. The Electric Company or Public Works should be promptly notified, as appropriate.

430.1.3 RESERVOIRS, PUMPS, WELLS, ETC.

Public Works maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

430.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for utility emergencies is maintained by LOCom (Lake Oswego Communications).

430.2 TRAFFIC SIGNAL MAINTENANCE

The City of Milwaukie contracts with a private maintenance company to furnish maintenance for all traffic signals within the City, other than those maintained by the State of Oregon.

430.2.1 OFFICER'S RESPONSIBILITY

Upon observing a damaged or malfunctioning signal, the officer will advise the LOCom (Lake Oswego Communications) of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

Officers have the responsibility to address any hazard caused by malfunction of any inoperative or malfunctioning signal.

Patrol Rifles

432.1 PURPOSE AND SCOPE

In order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects, the Milwaukie Police Department will make patrol rifles available to qualified patrol officers as an additional and more immediate tactical resource.

432.2 PATROL RIFLE

432.2.1 DEFINITION

A patrol rifle is an authorized weapon which is owned by the Department and which is made available to properly trained and qualified officers as a supplemental resource to their duty handgun. No personally owned rifles may be carried for patrol duty unless pre-approved in writing by the Chief of Police and the department range master.

432.3 SPECIFICATIONS

Only weapons and ammunition that meet agency authorized specifications, approved by the Chief of Police, and issued by the Department may be used by officers in their law enforcement responsibilities. The authorized patrol rifle issued by the Department is the AR15 .223 cal.

432.3.1 RIFLE AMMUNITION

The only ammunition authorized for the patrol rifle is that which has been issued by the Department. This will consist of a quality factory load in a .223 caliber.

432.4 RIFLE MAINTENANCE

- (a) The Rangemaster or armorer shall inspect and service each patrol rifle on a yearly basis
- (b) Each patrol officer issued a patrol rifle is required to field strip and clean their assigned patrol rifle as needed
- (c) Each patrol officer shall be responsible for promptly reporting any damage or malfunction of an assigned patrol rifle
- (d) Each patrol rifle shall be subject to inspection by a supervisor, the Rangemaster or Armorer at any time
- (e) No modification shall be made to any patrol rifle without prior written authorization from the Rangemaster or armorer

432.5 TRAINING

Officers shall not carry or utilize the patrol rifle unless they have successfully completed departmental training. This training shall consist of an initial patrol rifle user's course with performance objectives met and qualification score with a certified patrol rifle instructor. Officers

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shall thereafter be required to complete quarterly training and qualify at least twice a year by a certified patrol rifle instructor.

Any officer who fails to qualify or who fails to successfully complete two or more department sanctioned training/qualification sessions within a calendar year will no longer be authorized to carry the patrol rifle without successfully retaking the initial patrol officer user's course and qualification.

432.6 DEPLOYMENT OF THE PATROL RIFLE

Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- (a) Situations where the officer reasonably anticipates an armed encounter
- (b) When an officer is faced with a situation that may require the delivery of accurate and effective fire at long range
- (c) Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower
- (d) When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage
- (e) When an officer reasonably believes that a suspect may be wearing body armor
- (f) When authorized or requested by a supervisor

432.7 DISCHARGE OF THE PATROL RIFLE

The discharge of the patrol rifle shall be governed by the Department's Deadly Force Policy, Policy Manual § 300.

432.8 PATROL READY

Any qualified officer carrying a patrol rifle in the field shall maintain the weapon in a patrol ready condition until deployed. A rifle is considered in a patrol ready condition when it has been inspected by the assigned officer, the fire selector switch is in the safe position, the chamber is empty and a fully loaded magazine is inserted into the magazine well.

432.9 RIFLE STORAGE

- (a) When not in use, patrol rifles will be stored in the department armory in rifle racks or secured in the officer's uniform locker.
- (b) Officers will be allowed to take their department issued rifle home during their off time for training purposes. In doing so, officers shall ensure the rifle and ammunition are locked and secured while in their homes, vehicles or any other area under their control in a manner that will keep them inaccessible to children, irresponsible adults or theft.

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Patrol Rifles

Under no circumstances are officers to leave their department issued rifles in a vehicle over night.

432.10 PATROL RIFLE INVENTORY

The Rangemaster will keep an inventory of all department issued patrol rifles and all department patrol rifles in the department armory. The Rangemaster will conduct an audit of all department patrol rifles each calendar year.

Aircraft Accidents

434.1 PURPOSE AND SCOPE

This policy describes situations involving aircraft accidents including responsibilities of personnel, making proper notification and documentation.

434.2 RESPONSIBILITIES

In the event of an aircraft crash the employee responsibilities are as follows:

434.2.1 OFFICER RESPONSIBILITY

Officers should treat an aircraft crash site as a crime scene until it is determined that such is not the case. If a military aircraft is involved, additional dangers, such as live ordnance or hazardous materials, may be present. The scene may require additional security due to the potential presence of confidential equipment or information.

The duties of the field officer at the scene of an aircraft accident include the following:

- (a) Determine the nature and extent of the accident.
- (b) Request additional personnel and other resources to respond as needed.
- (c) Provide assistance for the injured parties until the arrival of fire department personnel and/or other emergency personnel.
- (d) Cordon off and contain the area to exclude unauthorized individuals as soon as practicable.
- (e) Provide crowd control and other assistance until directed otherwise by a supervisor.
- (f) Ensure that the medical examiner's office is notified if a death occurs.

Entering an aircraft or tampering with parts or debris is only permissible for the purpose of removing injured or trapped occupants, protecting the wreckage from further damage or protecting the public from danger. If possible, the investigating authority should first be consulted before entering or moving any aircraft or any crash debris. Photographs or sketches of the original positions should be made whenever feasible.

The fire department will be responsible for control of the accident scene until the injured parties are cared for and the accident scene has been rendered safe for containment. Thereafter, police personnel will be responsible for preserving the scene until relieved by the investigating authority.

Once the scene is relinquished to the investigating authority, personnel from this agency may assist in containment of the scene until the investigation is completed or assistance is no longer needed.

An airport service worker or the airport manager may respond to the scene to assist the on-scene commander with technical expertise, should it be needed during the operation.

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434.2.2 NATIONAL TRANSPORTATION SAFETY BOARD

The National Transportation Safety Board (NTSB) has the primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft incident the appropriate branch of the military will be involved in the investigation. The NTSB is concerned with several aspects of a crash as described in this section.

Every effort should be made to preserve the scene to the extent possible in the condition in which it was found until such time as NTSB or other authorized personnel arrive to take charge of the scene.

Military personnel will respond to take charge of any military aircraft involved, whether or not injuries or deaths have occurred.

If the accident did not result in a death or injury and the NTSB elects not to respond, the pilot or owner may assume control of the aircraft.

Removal of the wreckage shall be done under the guidance of the NTSB or military authorities or, if the NTSB is not responding for an onsite investigation, at the discretion of the pilot or the owner.

434.2.3 LOCOM (LAKE OSWEGO COMMUNICATIONS) RESPONSIBILITIES

Dispatchers are responsible to make notifications as directed once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. Generally, the dispatcher will need to notify the following agencies or individuals when an aircraft accident has occurred.

- (a) Fire Department
- (b) The affected airport tower
- (c) Closest military base if a military aircraft is involved
- (d) Ambulances or other assistance as required

When an aircraft accident is reported to the Police Department by the airport tower personnel the dispatcher receiving such information should verify that the tower personnel will contact the Federal Aviation Administration (FAA) Flight Standards District Office and the National Transportation Safety Board (NTSB). In the event that airport personnel are not involved, the dispatcher should notify the FAA and the NTSB.

434.2.4 RECORDS SUPERVISOR RESPONSIBILITIES

The Records Supervisor is responsible for the following:

- (a) Forward and maintain an approved copy of the accident report to the Oregon Department of Aviation
- (b) Forward a copy of the report to the Operations Captain and the manager of the affected airport

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Aircraft Accidents

434.2.5 PUBLIC INFORMATION OFFICER RESPONSIBILITIES

The Department Public Information Officer is responsible for the following:

- (a) Obtain information for a press release from the on-scene commander or his or her designee
- (b) When practical, the Department Public Information Officer should coordinate with the FAA Press Information Officer to prepare a press release for distribution to the Media

Information released to the press regarding any aircraft accident should be handled by the Department Public Information Officer or in accordance with existing policy.

434.3 DOCUMENTATION

Any aircraft accident (crash) within the City, regardless of whether injuries or deaths occur, shall be documented in a police report.

Field Training and Evaluation Program

436.1 PURPOSE AND SCOPE

The Field Training and Evaluation Program (FTEP) is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Milwaukie Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training and Evaluation Program complies with DPSST training requirements and that is designed to prepare the new officer to perform in a patrol assignment possessing all skills needed to operate in a safe, productive and professional manner.

436.2 FIELD TRAINING OFFICER SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

436.2.1 SELECTION PROCESS

FTO's will be selected based on the following requirements:

- (a) Desire to be an FTO
- (b) Minimum of three years of patrol experience, two of which shall be with this department
- (c) Demonstrated ability as a positive role model
- (d) Evaluation by supervisors and current FTO's

436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete an approved Field Training Officer's Course prior to being assigned as an FTO.

436.3 FIELD TRAINING AND EVALUATION PROGRAM SUPERVISOR

The FTEP supervisor will be selected from the rank of sergeant or above by the Operations Captain or his/her designee and shall possess a DPSST Supervisory Certificate.

The responsibilities of the FTEP supervisor include the following:

- (a) Assignment of trainees to FTOs.
- (b) Conducting FTO meetings.
- (c) Maintain and ensure FTO/Trainee performance evaluations are completed.
- (d) Maintain, update and issue the Field Training Manual to each trainee.
- (e) Monitor individual FTO performance.
- (f) Monitor overall FTEP Program.

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Field Training and Evaluation Program

- (g) Maintain liaison with FTO Coordinators of other agencies.
- (h) Maintain liaison with academy staff on recruit performance during the academy.
- (i) Develop ongoing training for FTOs.

436.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the Milwaukie Police Department who has successfully completed a DPSST approved Basic Academy or Career Officer Development Course.

436.5 REQUIRED TRAINING

Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of 16 weeks.

The training period for lateral officers may be modified depending on the trainee's demonstrated performance and level of experience, but shall consist of a minimum of eight weeks.

To the extent practicable, entry level and lateral officers should be assigned to a variety of Field Training Officers and shifts during their Field Training Program.

436.5.1 FIELD TRAINING MANUAL

Each new officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Milwaukie Police Department. The officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

The Field Training Manual will specifically cover the basic core functions outlined by DPSST.

436.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

436.6.1 FIELD TRAINING OFFICER

The FTO will be responsible for the following:

- (a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO program supervisor on a daily basis.
- (b) Review the Daily Observation Report (DORs) with the trainee each day.
- (c) Complete a detailed end of week performance evaluation for their trainee.
- (d) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.
- (e) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.

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436.6.2 FIELD TRAINING SUPERVISOR

The Field Training supervisor shall review and approve the Daily Observation Reports and if necessary, forward them to the Administrative Captain. The Field Training Supervisor will review and sign weekly evaluations and end of phase evaluations of each Trainee. The Field Training Supervisor will forward the documents to the Administrative Captain for review and approval.

436.6.3 TRAINEE

At the completion of the Field Training Program, the trainee will have an opportunity to submit a confidential performance evaluation on each of their FTO's and on the Field Training and Evaluation Program.

436.7 DOCUMENTATION

All documentation of the Field Training and Evaluation Program will be retained in the officer's training files and will consist of the following:

- (a) Daily Observation Reports
- (b) End of phase evaluations
- (c) Supervisor's evaluation
- (d) The completed Field Training Manual
- (e) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training

Obtaining Air Support

438.1 PURPOSE AND SCOPE

The use of a police aircraft can be invaluable in certain situations. This policy specifies potential situations where the use of an aircraft may be requested and the responsibilities for making a request. Aircraft may include helicopters and light airplanes.

438.2 REQUEST FOR AIRCRAFT ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of an aircraft would be beneficial, a request to obtain aircraft assistance may be made.

438.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for an aircraft the Patrol Sergeant, or his/her designee, will call the closest agency having aircraft support available. The Patrol Sergeant on duty will apprise that agency of the specific details of the incident prompting the request.

438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police Aircraft may be requested under any of the following conditions:

- (a) When the aircraft is activated under existing mutual aid agreements
- (b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the aircraft may reduce such hazard
- (c) When the use of the aircraft will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community
- (d) When an aircraft is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard
- (e) Vehicle pursuits

While it is recognized that the availability of aircraft support will generally provide valuable assistance to ground personnel, the presence of an aircraft will rarely replace the need for officers on the ground.

Contacts and Temporary Detentions

440.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

440.1.1 DEFINITIONS

Definitions related to this policy include:

Consensual encounter - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field interview (FI) - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile/Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Frisk or pat-down search - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others (ORS 131.625).

Reasonable suspicion - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Stop - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion that the person has committed or is about to commit a crime (ORS 131.615).

Temporary detention - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

440.2 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

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Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Milwaukie Police Department to strengthen community involvement, community awareness, and problem identification.

440.2.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act.
- (b) Actions suggesting that he/she is engaged in a criminal activity.
- (c) Presence in the area at an inappropriate hour of the day or night.
- (d) Presence in a particular area is suspicious.
- (e) Carrying of suspicious objects or items.
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggests he/she is carrying a dangerous weapon.
- (g) Location in proximate time and place to an alleged crime.
- (h) Physical description or clothing worn that matches a suspect in a recent crime.
- (i) Prior criminal record or involvement in criminal activity as known by the officer.

440.3 FRISK OR PAT-DOWN SEARCHES

A frisk or pat-down search of a stopped person may be conducted whenever an officer reasonably believes that the person may possess a dangerous or deadly weapon and presents a danger to the officer or other persons present (ORS 131.625). The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to the following:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.
- (c) The hour of the day and the location or area where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other dangerous weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

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440.4 FIELD PHOTOGRAPHS

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

440.4.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph.

440.4.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based on reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

440.4.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Patrol Sergeant with either an associated FI card or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures

If a photograph is not associated with an investigation where a case number has been issued, the Patrol Sergeant should review it and forward the photograph to one of the following locations:

- (a) If the photo and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Patrol Sergeant will forward the photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed by the Criminal Organizations Policy.
- (b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

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440.4.4 SUPERVISOR RESPONSIBILITIES

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

440.5 POLICY

The Milwaukie Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete an FI, pat-down search, or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

440.6 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.
 1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department members.
 1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

Patrol Sergeants

444.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Sergeant heads each watch.

444.2 DESIGNATION AS ACTING

In some circumstances, when a Sergeant is unavailable for assigned shift duty as Patrol Sergeant, a qualified officer shall be designated as acting Patrol Sergeant by the Operations Captain.

Mobile Digital Computer Use

447.1 PURPOSE AND SCOPE

The Mobile Digital Computer (MDC) accesses confidential records from the Oregon State Police and Department of Motor Vehicles databases. Employees using the MDC shall comply with all appropriate federal and state rules and regulations.

447.2 MDC USE

The MDC shall be used for official police communications only. Messages that are of a sexual, racist, or offensive nature, or otherwise critical of any member of the Department are strictly forbidden.

Messages may be reviewed by supervisors at anytime without prior notification. Employees generating or transmitting messages not in compliance with this policy are subject to discipline.

All calls dispatched to patrol units should be communicated by voice and MDC unless otherwise authorized by the Patrol Sergeant.

Any agency using a terminal to access the Law Enforcement Data System (LEDS), whether directly or through another agency, is responsible for adhering to all applicable LEDS Rules & Policies and must ensure that unauthorized persons are not given access or allowed to view LEDS information.

447.2.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should generally be limited to times when the vehicle is stopped. When the vehicle is in motion, the operator should only attempt to read messages that are likely to contain information that is required for immediate enforcement, investigative or safety needs.

Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

447.2.2 DOCUMENTATION OF ACTIVITY

MDC's and voice transmissions are used to record the officer's daily activity. To ensure the most accurate recording of these activities, the following are required:

- (a) All contacts or activity shall be documented at the time of the contact
- (b) Whenever the activity or contact is initiated by voice, it shall be entered into the Computer Aided Dispatch (CAD) system by a dispatcher
- (c) Whenever the activity or contact is not initiated by voice, the officer shall record it on the MDC

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Mobile Digital Computer Use

447.2.3 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted either verbally over the police radio or through the MDC system.

Officers responding to in-progress calls shall advise changes in status verbally over the radio to assist other officers responding to the same incident.

Other changes in status may be entered by depressing the appropriate keys on the MDC's.

447.2.4 EMERGENCY ACTIVATION OF MDC

If the emergency button is depressed on the MDC, the dispatcher will call the unit and ask if Code-4. If there is no emergency, then he/she should answer "Code-4" and all units will resume their normal activity. If there is no response or the officer answers in some other way, the dispatcher shall proceed as follows:

- (a) If the unit is not on a call, send available units to assist in locating the unit transmitting the emergency. Whenever a location is known, immediately dispatch the nearest available unit Code-3.
- (b) Notify the field sergeant and Patrol Sergeant of the incident without delay.

Units not responding to the emergency shall refrain from transmitting on the radio until there is a Code-4, unless they are themselves handling an emergency.

447.3 MDC CONSIDERATIONS

447.3.1 NON-FUNCTIONING MDC

Whenever possible, officers will not use units with malfunctioning MDC's. Whenever officers must drive a unit in which the MDC is not working, they shall notify LOCOM. It shall be responsibility of LOCOM to record all information that will then be transmitted verbally over the police radio.

447.3.2 BOMB CALLS

When investigating reports of possible bombs, officers will turn off their MDC's. Operating the MDC may cause some devices to detonate.

| | |
|---------------------------|------------|
| Effective Date: | |
| Revised Date: | 08/29/2022 |
| Issuing Authority: | |

BODY-WORN CAMERAS Portable Audio/Video Recorders

449.1 PURPOSE AND SCOPE

Body Worn Cameras (BWC) are an effective tool available to law enforcement that can enhance the understanding of interactions between officers and the public. They provide additional documentation of police-public encounters and can be a valuable tool for collecting information or evidence. The additional information which they provide can be an important component in maintaining public trust in police accountability.

The Milwaukee Police Department acknowledges video from a body-worn camera cannot provide a complete account of all aspects of an event and capture an entire scene, environmental conditions, and surrounding circumstances. The video they provide is intended to augment the thorough statements of officers and witnesses on scene, to provide the most comprehensive understanding of what happened possible.

The Milwaukee Police Department recognizes that video images cannot always depict the entire scene or incident in the way it may have been perceived or experienced by any person present. BWC video should be considered additional evidence and not a substitute for a complete investigation of any incident.

BWC video evidence has at least the following limitations:

- (a) BWCs may capture something that the wearer of the camera did not see or, conversely, there may be a viewpoint the wearer saw that was not captured by the camera.
- (b) The focal point of the camera may not be the focal point of the person wearing the camera.
- (c) Such video cannot capture tactile responses such as a subject that tenses their muscles or body on contact.
- (d) Due to the environmental factors, a BWC, in some circumstances, may capture more or less than the human eye.
- (e) BWC video can be slowed down, sped up, or viewed frame by frame but this is never how the wearer of the BWC would have perceived or experienced the situation.
- (f) BWC video cannot capture the physiological or psychological phenomena that a person may experience during a high stress situation.

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BODY-WORN CAMERAS Portable Audio/Video Recorders

449.2 POLICY

The Milwaukie Police Department will provide uniformed members with access to BWC's for use during the performance of their duties. The use of body-worn cameras is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

The Department maintains the right to assign employees and body-worn cameras and direct their use at its discretion, consistent with this policy.

This policy provides guidelines for the use of body-worn cameras by members of this department while in the performance of their duties. This policy does not apply to interviews or interrogations conducted by detectives in the field or at the Milwaukie Police Department, authorized undercover operations, legally authorized wiretaps, or eavesdropping (concealed listening devices).

This policy is intended to provide Milwaukie Police Department members direction on when and how to use body-worn cameras, as well as guidelines for the operation and management of Digital Multimedia Evidence in accordance with ORS 133.741.

Use of body-worn cameras for any purpose other than in accordance with this policy is prohibited without the approval of the Chief of Police or police command staff acting on behalf of the Chief of Police.

449.3 MEMBER PRIVACY EXPECTATION

All DME made by members on any department-issued device at any time, and any recording made while acting in their official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

449.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that they are equipped with a BWC issued by the Department, the BWC is in good working order, and the member has been properly trained in the use of the device. The member will check out the device to themselves at the beginning of their shift in accordance with device instructions and Department training.

The BWC will be used with reasonable care to ensure proper functioning and be function checked or tested by the member prior to use. The BWC selected will be registered to that member for that shift. If the BWC has been lost, is not in working order, or the member becomes aware of a malfunction at any time, the member shall promptly report the loss or failure to their supervisor and obtain a functioning device as soon as reasonably practicable.

Uniformed members provided a BWC shall wear the device in a conspicuous manner on the upper half of the torso, in a position designed to produce an effective recording, and notify persons that they are being recorded whenever reasonably practicable. Due to a limited number of cameras available, the priority for body-worn cameras is as follows: Uniformed Officers, Uniformed

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BODY-WORN CAMERAS Portable Audio/Video Recorders

Sergeants, or other members as directed by management staff based on operational need and discretion.

A School Resource Officer is a specialized position, working full-time at the local schools. NCSD staff, Milwaukie High School principal and the SRO will work together to determine if the BWC is well suited for the school environment, annually.

Subject to supervisory approval, any member assigned to a non-uniformed position may utilize a BWC at any time the member or their supervisor believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should notify persons that they are being recorded, whenever reasonably practicable.

Members utilizing a BWC shall return the checked-out camera at the end of their shift and ensure all DME is downloaded from a department approved transmittal location. Exceptions to end-of-shift downloading DME shall be approved by a supervisor.

No member shall attempt to alter, edit, or delete BWC video in any way.

Members will document the existence of a recording in any report or other official record of the contact, including any instance where the member failed to record an encounter, the BWC malfunctioned, or the member deactivated the recording. Members should include the reason for deactivation.

In contacts where no report is written, members shall indicate in CAD that they operated a BWC. For purposes of training or an accidental activation of their BWC, members shall notify their supervisor of the activation.

Those members writing reports for incidents involving the activation of a BWC are reminded that an incident captured on the BWC is not a substitute for a complete and thorough written report.

Members must write a report, when the situation requires, and may not use the BWC video as a substitute for, or basis to abbreviate, their documentation of the incident.

449.5 OPERATION OF THE BODY WORN CAMERA

This policy is not intended to describe every possible situation where the system may be used however, there are many situations where the use of the BWC system is appropriate. In addition to the required situations, members should activate the system any time they believe its use would be appropriate or valuable to document an incident.

The BWC system shall be activated as close as practical to the beginning of an encounter in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.

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- (c) Self-initiated activity in which a member would normally notify LOCOM, excluding casual conversation with no enforcement component.
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
- (e) Custodial interviews as referenced in Policy 600.
- (f) During any transport of a person, in custody or not, excluding an authorized ride-along without others in the vehicle.
- (g) Any time a member believes it would be appropriate or valuable to record an incident.

Unless there are exigent circumstances or concerns for the safety of the member or any other person, the BWC shall be activated whenever the Department member has or develops reasonable suspicion or probable cause that an offense has been or will be committed by a person(s) in contact with the member (ORS 133.741).

Members shall notify all parties to the conversation that a recording is being made as soon as practicable unless circumstances prevent or unless pursuant to a court order or the limited exceptions in ORS 165.540 subsections (2) through (7) and ORS 133.726 (for example, but not limited to, when there is probable cause to believe that a person is engaged in committing, has committed or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008 and there is reason to believe the oral communication will contain evidence of the crime; felonies when exigency makes obtaining a warrant unreasonable; certain felony drug offenses; felonies that endangers human life) (editing note: added more specific statutory language from ORS 133.726)

At no time is a member expected to jeopardize their safety in order to activate a BWC. However, the device should be activated in situations described above as soon as reasonably practicable.

449.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Oregon law generally prohibits any individual from surreptitiously recording any conversation, except as provided in ORS 165.540 and ORS 165.543.

Members shall not surreptitiously record another department member or city employee without a court order unless lawfully authorized by the Chief of Police or police command staff.

Based on the BWC device used, the Department is not precluded from using GPS and buffering features at its sole discretion. The department will set buffering for sixty seconds.

Once activated, the BWC shall remain on continuously until:

- a) The event has concluded. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported, and all witnesses, victims, etc. have been interviewed. Recording may cease if an officer has reason to believe there is no value in collecting further data during significant periods of inactivity such as waiting for a tow truck, waiting for a family member to arrive, or other similar situations that break from direct participation

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in an incident. In matters of an officer involved shooting, use of deadly force, in custody death or other critical incident, the BWC will not be turned off until authorized by a supervisor.

b) A citizen being recorded has requested that the member cease recording and ceasing the recording does not compromise the investigation, and the member believes the request is due to reasonable constitutionally protected privacy concerns of the individual. Recordings shall resume when the privacy concern is no longer an issue unless the circumstances no longer fit the criteria for recording.

c) Technical difficulties render the system inoperable.

449.5.2 DEACTIVATION OF BWC RECORDING

Once activated, the BWC shall remain on continuously until:

a) The event has concluded. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported, and all witnesses, victims, etc. have been interviewed. Recording may cease if an officer has reason to believe there is no value in collecting further data during significant periods of inactivity such as waiting for a tow truck, waiting for a family member to arrive, or other similar situations that break from direct participation in an incident. In matters of an officer involved shooting, use of deadly force, in custody death or other critical incident, the BWC will not be turned off until authorized by a supervisor.

b) A citizen being recorded has requested that the member cease recording and ceasing the recording does not compromise the investigation, and the member believes the request is due to reasonable constitutionally protected privacy concerns of the individual. Recordings shall resume when the privacy concern is no longer an issue unless the circumstances no longer fit the criteria for recording.

c) Technical difficulties render the system inoperable.

a) During a sexual assault investigation where the victim is aware of the option to record and objects to being recorded. Members should consider requesting audio only if/when this occurs.

b) Inside a private residence when the circumstance of the contact is not likely to result in contact with a suspect or arrest of an individual and the interactions are not adversarial or likely to result in a complaint.

c) During a child abuse investigation when the parent/guardian of the child is aware of the option to record and objects to the child being recorded. Members should consider requesting audio recording only if/when this occurs.

d) The recording shall cease when an arrestee has engaged in their right to speak to an attorney or another representative during the booking process. The recording should be reactivated once private consultation with representation has ceased. During a contact, if a person requests an attorney or other representative, recording does not cease until the arrestee or contacted person is actively speaking to the attorney or other representative. This can also be accomplished by the recording officer leaving the area where the legal consultation is occurring.

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- e) During contact with a hesitant/reluctant witness, and the information the witness has, more likely than not, is needed for an investigation.
- f) A witness or victim who wishes to remain anonymous or refuses to provide a statement if recorded and the encounter is non-confrontational.
- g) While conducting traffic control or scene security with no direct involvement in the initial event.
- h) Recordings that would jeopardize safety planning for victims. Such as, during a domestic violence investigation, when the investigation is complete and or an arrest has been made. After which, during the Lethality Assessment Protocol questions, the camera should be turned off and the victim should be told they are no longer being recorded. The recording shall remain off during any call to the domestic violence advocate

449.5.3 CESSATION OF RECORDING IN CERTAIN CIRCUMSTANCES

The Milwaukie Police Department recognizes the potential concerns members of the public may have about department members recording contacts. Constitutional protections to privacy should serve as a guideline when determining whether or not to record a contact, in addition to Oregon law. Community members do not have a reasonable expectation of privacy when talking with a police officer during the scope of the officer's official duties, even when contact occurs in a private residence. Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to deactivate the BWC should be recorded along with the member's response and included in the report narrative.

Discretion to turn off, or not activate the BWC rests with the member in the following limited circumstances:

- a) During a sexual assault investigation where the victim is aware of the option to record and objects to being recorded. Members should consider requesting audio only if/when this occurs.
- b) Inside a private residence when the circumstance of the contact is not likely to result in contact with a suspect or arrest of an individual and the interactions are not adversarial or likely to result in a complaint.
- c) During a child abuse investigation when the parent/guardian of the child is aware of the option to record and objects to the child being recorded. Members should consider requesting audio recording only if/when this occurs.
- d) The recording shall cease when an arrestee has engaged in their right to speak to an attorney or another representative during the booking process. The recording should be reactivated once private consultation with representation has ceased. During a contact, if a person requests an attorney or other representative, recording does not cease until the arrestee or contacted person is actively speaking to the attorney or other representative. This can also be accomplished by the recording officer leaving the area where the legal consultation is occurring.

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- e) During contact with a hesitant/reluctant witness, and the information the witness has, more likely than not, is needed for an investigation.
- f) A witness or victim who wishes to remain anonymous or refuses to provide a statement if recorded and the encounter is non-confrontational.
- g) While conducting traffic control or scene security with no direct involvement in the initial event.
- h) Recordings that would jeopardize safety planning for victims. Such as, during a domestic violence investigation, when the investigation is complete and or an arrest has been made. After which, during the Lethality Assessment Protocol questions, the camera should be turned off and the victim should be told they are no longer being recorded. The recording shall remain off during any call to the domestic violence advocate

449.6 MUTE FEATURE

For specific purposes, Officers may use the mute feature on their BWC in lieu of deactivating the camera. The purpose of the mute feature is to maintain the continuation of video recording while temporarily pausing the audio recording. Officers should state their reason for using the mute feature prior to placing the camera into mute. Inadvertent failure to state the reason for muting will not result in a policy violation absent pattern. The mute feature shall only be used in the following circumstances to protect confidential and sensitive information:

- (a) Confidentiality of law enforcement conversations during tactical situations.
- (b) Confidentiality of administrative conversations between supervisors, officers, and/or recruits during calls for service. Examples include, but are not limited to:
 1. Police tactics
 2. Department policy
 3. Legal considerations
 4. Sensitive training discussions
 5. Confidential HIPAA conversations (for example Mental Health Response Team)

449.6.1 NON-RECORDING EVENTS

BWC systems should not be used in the following circumstances:

- a) In a hospital or other treatment facility setting, unless responding to a call for service that is in progress inside the hospital or treatment facility. Members should be careful to avoid recording persons other than the victim(s), suspect(s), or witness(es) who are deemed relevant to the matter being investigated in these locations.
- b) In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, or break room absent consent from each individual or a legally cognizable warrantless basis to conduct the recording.

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- c) During contact with a citizen informant providing confidential information to an Officer or speaking with an undercover Officer.
- d) While delivering a death notification.
- e) When engaged in conversations with individuals with whom the member is in a privileged relationship (e.g., spouse, attorney, peer counselor, labor representative, clergy, healthcare provider, etc.).
- f) Citizen contacts that occur within courtrooms in the course of official court proceedings, unless responding to a call for service that is in progress inside the court facility.
- g) Routine phone contacts, including dispatched calls that are taken by phone.
- h) Community policing and community engagement activities.
 - (i) Interviews of child abuse victims.
 - (j) Interviews of sexual assault victims.
 - (k) Casual contacts with personnel, while on break or engaged in personal activities.
 - (l) Inside police facilities, briefings, roll calls, debriefings, and department meetings.
 - (m) Places of worship and/or religious ceremonies, unless responding to a call for service that is in progress inside the facility.

449.6.2 RECORDING JUVENILES

It is recognized that recordings of juvenile offenders will occur by the use of BWC systems when Department members are responding to calls for service or during the course of an investigation. If a member has a need to use the BWC recordings of juvenile offenders as part of an investigation, the officer shall comply with state or any other applicable laws. See policy 600.

449.6.3 EXPLOSIVE DEVICES

Devices like BWC systems can emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

449.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.

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- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

449.8 PROHIBITED USE OF BODY-WORN CAMERAS

Members are prohibited from using department-issued BWC systems for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All recordings shall be retained at the Department or by any department-approved third-party vendor.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Supervisor. As authorized, any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

The City is not prohibited from using DME for training purposes, administrative investigations, civil or criminal purposes.

Recordings shall not be used by any member for the purpose of embarrassment, harassment, or ridicule.

449.8.1 PROHIBITED USE OF BODY WORN RECORDINGS

Recordings from BWC systems shall not be analyzed with facial recognition or other biometric matching technology (ORS 133.741).

449.9 IDENTIFICATION AND PRESERVATION OF RECORDS

To assist with identifying and preserving DME, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report. DME files should be securely downloaded no later than the end of the member's on-duty work shift, if practicable.

A member should transfer, tag or mark recordings when the member reasonably believes:

- a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- b) A complainant, victim or witness has requested non-disclosure.

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- c) A complainant, victim or witness has not requested non-disclosure, but the disclosure of the recording may endanger the person.
- d) Disclosure may be an unreasonable violation of someone's privacy.
- e) Medical or mental health information is contained.
- f) Disclosure may compromise an undercover officer or confidential informant.
- g) Training opportunity

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

449.10 REVIEW OF RECORDED MEDIA FILES

Members are permitted to review recordings from their BWC as a resource to help ensure accuracy and consistency when preparing reports. Members should write police reports based on what they heard, what they saw and what they did, using their own BWC video to refresh their memory. Members should not write their police reports based on information from BWC video other than their own. If an officer is involved in a shooting, an in-custody death, a serious use of force resulting in serious physical injury (ORS 161.015), or is otherwise suspected of wrongdoing, a sergeant or command staff will secure and restrict the video file as soon as practicable, given the totality of the circumstances. In the case of an officer involved shooting or in-custody death, the officers are not to review the related video until authorized by command staff, in coordination with the Clackamas County District Attorney's Office Major Crimes Team (see the Officer-Involved Shootings and Deaths Policy for additional guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Department members shall not edit, alter, erase, duplicate, copy, photograph, video record, share (other than individuals with a right to know), or otherwise distribute in any manner DME from any BWC. Requests for any DME from a BWC shall be made through the System Administrator, Chief of Police, Records Supervisor or City Recorder.

Mandatory Review. Sergeants will review all related BWC recordings when:

- (a) Anytime there is reportable use of force by a member(s) assigned a BWC; this review will take place prior to approving any related reports.
- (b) Anytime an officer informs a sergeant an incident has or could result in a complaint, or a citizen initiates a complaint with a sergeant.
- (c) Pursuit Reviews

449.10.1 ADMINISTRATIVE REVIEWS AND INVESTIGATIONS

Supervisors and Command Staff are authorized to review relevant recordings any time for: administrative investigations; reviewing meritorious conduct, when investigating alleged violation

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of policy, misconduct, complaints or upon receipt of information leading to the need for review of a particular event or circumstances; and for training purposes.

DME may also be reviewed:

- a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation.
- b) By the supervisor(s) and specific chain of command reviewing use of force events and pursuit after-actions.
- c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- d) By media personnel with permission of the Chief of Police or City Manager
- e) By Human Resources Director, City Attorney, and City Manager, in compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.
- (f) For the purposes of an investigation, including witness and complainant interviews, as approved through the Department complaint policy and process.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy 810). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

449.10.2 TRAINING

Recordings from body-worn cameras may be shown for training purposes upon completion of a criminal case or administrative case. All such use shall be at the permission of police command staff or their authorized designee.

Department members shall be provided with at least 14 days' notice if recordings intended for use for training purposes were either made by them or captured their image or voice. If an involved employee/individual objects to the release of the video, a determination of whether or not to release the video for purposes of training will be made by the Chief of Police or authorized designee.

449.10.3 USE OF FORCE

If the member is giving a formal statement about a non-deadly use of force incident, or if the member is the subject of a disciplinary investigation, the member shall:

- a) Have the right to review the recording(s) in the presence of the member's attorney or labor representative; and
- b) Have the right to review their own recording(s) from BWC systems

For incidents involving the use of deadly force, see also policy 310.

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449.11 CRITICAL INCIDENTS

Critical incidents are defined as: Officer Involved Shooting or discharge of a firearm when on duty or engaged in law enforcement activities, an in-custody death, or other serious use of force requiring detective activation due to resulting in serious physical injury as defined is ORS 161.015

For the purposes of this section, "discharge of a firearm" does not apply when engaged in approved training, unless such use results in death or serious physical injury.

449.11.1 ACTIONS AFTER CRITICAL INCIDENTS

After a critical incident, when safe and practical to do so, the on duty supervisor or any higher ranking officer on scene shall retrieve the BWC(s) from involved and witness Department members at the scene, who are not being directed to write their own report. The supervisor will be responsible for assuring the DME is uploaded and identified as restricted. Following a critical incident, BWC recordings may be viewed by the supervisor securing the BWC recording prior to being uploaded only when exigent circumstances exist, such as a member being injured and in order to obtain identifying suspect information or other pertinent information from the BWC recordings. Information from the review will not be shared with persons involved in the critical incident, consistent with typical communication restriction orders. Thereafter, DME of the incident may only be viewed by those personnel authorized by the Clackamas County District Attorney's Office Major Crimes Team coordinator, in consultation with the lead investigative agency, and the Chief of Police or those personnel authorized in order to assist in an investigation. The Chief of Police will consult with the City Manager and ensure they are kept apprised and updated on such matters.

The City will provide copy of DME to the Clackamas District Attorney's office (CCDA) and/or Major Crimes Team (MCT) investigators as requested.

449.11.2 OIS-IN CUSTODY DEATHS

If an officer is involved in an OIS, an in-custody death, or other serious use of force requiring detective activation due to resulting in serious physical injury as defined is ORS 161.015, the officer is restricted from viewing the video. The Major Crimes Team / designated investigator has the right to ask the officer if they are willing to provide a summary statement related to what happened, what force they used and why, prior to the officer watching any BWC video. The officer can also be asked to review the BWC video and provide a detailed statement, answering clarifying questions by the Major Crimes Team / designated investigators. If the officer is giving a formal statement about the use of force the officer shall have the option to view only their video recording in the presence of the officer's attorney or labor representative before giving a statement. Viewing will occur in a secure and private location as determined by the Chief of Police, or the Acting Chief, and the Clackamas County District Attorney's Office Major Crimes Team / Officer Involved Shooting Team.

449.12 RETENTION OF RECORDINGS

All files from BWC shall be securely stored in accordance with state records retention laws and will be purged after no longer useful for purposes of training, or for use in an investigation or

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prosecution (including appeals), or for use in resolving a claim or pending litigation, or disciplinary investigation. In capital punishment prosecutions, files shall be kept until the alleged offender is no longer under control of a criminal justice agency.

All recordings shall be retained for a period consistent with the requirements of the state's public records retention laws, but in no event for a period less than 180 days. Recordings no longer needed for a court proceeding or an ongoing criminal investigation shall not be retained for more than 30 months (ORS 133.741). The retention period begins from the date the BWC recording was labeled or categorized as required by law. Department administrators, in addition to the recording member, may label or categorize recordings for retention. Members will periodically be directed by the System Administrator(s) or designee to label or categorize any DME which had not previously been labeled or categorized.

449.12.1 RELEASE OF BODY-WORN CAMERA RECORDINGS

Requests for the release of BWC recordings shall be processed in accordance with the Records Maintenance and Release Policy; 808. In the case of officer involved shootings or in-custody deaths, the release of BWC video will be coordinated by the Chief of Police, Acting Chief, City Manager and City Attorney. In critical incidents the city recognizes the requirement to balance public interests, complying with Public Records law and will strive to handle the release requests without undue delays.

449.12.2 STORAGE OF DATA BY VENDORS

Any contract with a third-party vendor for data storage of recordings from BWC must state that all recordings are the property of the Milwaukie Police Department, not owned by the vendor, and cannot be used by the vendor for any purpose inconsistent with the policies and procedures of the Milwaukie Police Department (ORS 133.741).

449.12.3 REVIEW OF POLICY

The Chief of Police or their authorized designee will be responsible for ensuring, at a minimum, a yearly review of this policy by Department members. This is to ensure compliance with state and federal law and utilization of best practices.

Medical Marijuana

451.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production, or use of marijuana under Oregon's medical marijuana laws (ORS 475B.785 et seq.).

This policy is not intended to address laws and regulations related to recreational use of marijuana.

451.1.1 DEFINITIONS

Definitions related to this policy include:

Cardholder - Any patient or caregiver who has been issued a valid Registry Identification Card (RIC).

Caregiver (or designated primary caregiver) - An individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as the person responsible for managing the well-being of a person who has been diagnosed with a debilitating medical condition on either that person's application for a RIC or in other written notification submitted to the Oregon Health Authority. Caregiver does not include a person's attending physician; however, it may include an organization or facility that provides hospice, palliative, or home health care services. The caregiver may assist the cardholder with any matter related to the medical use of marijuana (ORS 475B.791; ORS 475B.807; ORS 475B.801).

Grower - A person, joint venture, or cooperative that produces industrial hemp (ORS 571.269).

Handler - A person, joint venture, or cooperative that receives industrial hemp for processing into commodities, products, or agricultural hemp seed (ORS 571.269).

Mature marijuana plant - A marijuana plant that has flowers (ORS 475B.791).

Medical use of marijuana - The production, processing, possession, delivery, distribution, or administration of marijuana, or use of paraphernalia used to administer marijuana to mitigate the symptoms or effects of a debilitating medical condition (ORS 475B.791). The RIC may also identify a person applying to produce marijuana or designate another person to produce marijuana under ORS 475B.810.

Patient - A person who has been diagnosed with a debilitating medical condition within the previous 12 months and been advised by his/her attending physician that the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition (ORS 475B.913). This includes a person who has been issued a valid RIC for his/her medical condition (ORS 475B.797).

Registry Identification Card (RIC) - A document issued by the Oregon Health Authority under ORS 475B.797 that identifies a person authorized to engage in the medical use of marijuana and, if the person has a designated primary caregiver under ORS 475B.804, the person's designated

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primary caregiver (ORS 475B.791). The RIC may also identify a person applying to produce marijuana or designate another person to produce marijuana under ORS 475B.810.

Statutory possession and grow site amounts - Amounts authorized by ORS 475B.831 and ORS 475B.834.

Usable marijuana - The dried leaves and flowers of marijuana. Usable marijuana does not include the seeds, stalks, and roots of marijuana or waste material that is a by-product of producing marijuana (ORS 475B.791).

451.2 POLICY

It is the policy of the Milwaukie Police Department to prioritize resources to avoid making arrests related to marijuana that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

Oregon medical marijuana laws are intended to protect patients and their doctors from criminal and civil penalties that may deter the use of small amounts of marijuana by those suffering from debilitating medical conditions (ORS 475B.785). However, Oregon's medical marijuana laws do not affect federal laws, and there is no medical exception under federal law for the possession or distribution of marijuana. The Milwaukie Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under Oregon law and the resources of the Department.

451.3 INVESTIGATION

Investigations involving the possession, delivery, production, or use of marijuana generally fall into one of several categories:

- (a) Investigations when no person makes a medicinal claim.
- (b) Investigations related to patient cardholders.
- (c) Investigations related to patient non-cardholders.

451.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM

In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation. A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

451.3.2 INVESTIGATIONS RELATED TO PATIENT CARDHOLDERS

Officers shall not take enforcement action against a cardholder for engaging in the medical use of marijuana with amounts at or below statutory possession amounts or statutory grow site amounts. Officers shall not take enforcement action against a caregiver for assisting a patient cardholder in the medical use of marijuana with amounts at or below statutory possession amounts or statutory grow site amounts (ORS 475B.907).

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Cardholders are required to possess a RIC when using or transporting marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates, or cannabinoid extracts at a location other than the address on file with the Oregon Health Authority (ORS 475B.837). However, officers should treat a person without a RIC in his/her possession as if it were in his/her possession if the RIC can be verified through an Oregon State Police Law Enforcement Data Systems (LEDS) query or other sources.

451.3.3 INVESTIGATIONS RELATED TO PATIENT NON-CARDHOLDERS

Officers should not take enforcement action against a patient who does not have a RIC for possession or production of marijuana, or any other criminal offense in which possession or production of marijuana is an element, if the patient meets all of the following (ORS 475B.913):

- (a) Is engaged in the medical use of marijuana
- (b) Possesses, delivers, or manufactures a quantity at or below statutory possession quantity or the quantity cultivated is at or below statutory grow site amounts

Officers should not take enforcement action against a person who does not meet the definition of a patient if the person is taking steps to obtain a RIC; possesses, delivers, or manufactures marijuana at or below statutory possession quantities or below statutory grow site quantities; and the person's medical use claim appears genuine under the circumstances (ORS 475B.913).

451.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

- (a) Grow sites are regulated in the following manner (ORS 475B.810):
 - 1. The Oregon Health Authority must have issued a marijuana grow site registration card for a site to be valid.
 - 2. The grow site registration card must be posted for each RIC holder for whom marijuana is being produced at a marijuana grow site.
- (b) An officer who determines that the number of marijuana plants at an address exceeds quantities authorized by statute may confiscate only the excess number of plants (ORS 475B.831).
- (c) Because enforcement of medical marijuana laws can be complex and time consuming and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:
 - 1. The suspect has been identified and can be easily located at another time.
 - 2. The case would benefit from review by a person with expertise in medical marijuana investigations.
 - 3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.

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4. Any other relevant factors exist, such as limited available department resources and time constraints.
- (d) Before proceeding with enforcement related to grow sites, a marijuana producer, or processing sites officers should consider conferring with appropriate legal counsel, the Oregon Health Authority, and/or Oregon Liquor Control Commission (ORS 475B.831; ORS 475B.136).
- (e) Registration or proof of registration under ORS 475B.785 to ORS 475B.949 does not constitute probable cause to search the person or property of the registrant or otherwise subject the person or property of the registrant to inspection (ORS 475B.922).
- (f) As a licensing authority, the Oregon Liquor Control Commission may assist with related questions regarding recreational marijuana (ORS 475B.070).

451.3.5 EXCEPTIONS

Medical marijuana users are generally not exempt from other criminal laws and officers should enforce criminal laws not specifically covered by the Medical Marijuana Act appropriately. Officers may take enforcement action if the person (ORS 475B.910):

- (a) Drives under the influence of marijuana as provided in ORS 813.010.
- (b) Engages in the medical use of marijuana in a place where the general public has access (ORS 161.015), in public view, or in a correctional facility (ORS 162.135(2)), or in a youth correction facility (ORS 162.135(6)).
- (c) Delivers marijuana to any individual who the person knows is not in possession of a RIC.
- (d) Delivers marijuana to any individual or entity that the person knows has not been designated to receive marijuana or assigned a possessory interest in marijuana by an individual in possession of a RIC.

If an officer knows or has reasonable grounds to suspect a violation of the Adult and Medical Use of Cannabis Act (ORS 475B.545 to ORS 475B.429), the officer shall immediately notify the district attorney who has jurisdiction over the violation and provide any relevant information, including the names and addresses of any witnesses (ORS 475B.300).

451.3.6 INDUSTRIAL HEMP

Medicinal marijuana investigations may lead to separate issues related to industrial hemp. Growers and handlers who operate under the industrial hemp laws of Oregon must be registered with the Oregon Department of Agriculture (ODA) to grow or handle industrial hemp or produce agricultural hemp seed. Growers and handlers who produce seed products incapable of germination are not required to be registered with the ODA (ORS 571.281). Officers may contact the ODA's Commodity Inspection Division for information about industrial hemp sites and registration compliance.

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451.4 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

451.5 PROPERTY ROOM SUPERVISOR RESPONSIBILITIES

The Police Technician shall ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed, harmed, neglected or injured. The Police Technician is not responsible for caring for live marijuana plants (ORS 475B.922).

Marijuana seized as prisoner property or contraband will not be returned to any person in accordance with Federal Law. Any court order to return marijuana should be referred to the City Attorney's Office.

The Police Technician may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Police Technician.

Foot Pursuits

456.1 PURPOSE AND SCOPE

Foot pursuits are inherently dangerous and require common sense, sound tactics and heightened officer safety awareness. This policy sets forth guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot by balancing the objective of apprehending the suspect with the risk of potential injury to the officer, the public or the suspect.

456.1.1 POLICY

It is the policy of this department when deciding to initiate or continue a foot pursuit that officers must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department personnel, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department personnel.

456.2 DECISION TO PURSUE

Officers may be justified in initiating a foot pursuit of any individual who the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion of the individual's involvement in criminal activity.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place department personnel and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, officers should continuously consider reasonable alternatives to pursuit based upon the circumstances and resources available, such as the following:

- (a) Containment of the area
- (b) Canine search
- (c) Saturation of the area with patrol personnel
- (d) Aerial support

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- (e) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the pursuit.

456.3 GUIDELINES FOR FOOT PURSUIT

Unless the officer reasonably believes that exigent circumstances exist (e.g., a serious threat to the safety of personnel or members of the public), Officers should consider alternatives to engaging in or continuing a foot pursuit under the following conditions:

- (a) When directed by a supervisor to terminate the foot pursuit. Such an order shall be considered mandatory.
- (b) When the officer is acting alone.
- (c) When two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of his or her location and direction of travel.
- (e) When pursuing multiple suspects and the pursuing officers do not reasonably believe that they would be able to control the suspect should a confrontation occur.
- (f) When the physical condition of the officers renders them incapable of controlling the suspect if apprehended.
- (g) When the officer loses radio contact with LOCOM or with backup officers.
- (h) The suspect enters a building, structure, confined space or a wooded or otherwise isolated area and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient officers.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increases the risk to the officer or the public.
- (j) The officer reasonably believes that the danger to the pursuing officer or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession or function of his/her firearm or other essential equipment.
- (l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (m) The suspect's location is no longer definitely known.

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- (n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department personnel or the public if the suspect is not immediately apprehended.
- (o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other conditions.

456.4 RESPONSIBILITIES IN FOOT PURSUITS

456.4.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officers or a supervisor, the initiating officers shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officers should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

- (a) Unit identifier.
- (b) Location and direction of travel.
- (c) Reason for the foot pursuit.
- (d) Number of suspects and description.
- (e) Whether the suspect is known or believed to be armed.

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officers unable to promptly and effectively broadcast this information should terminate the pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify LOCOM of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary.

456.4.2 ASSISTING OFFICER RESPONSIBILITIES

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize non-essential radio traffic to permit the involved officer maximum access to the radio frequency.

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Any officers who are in a position to intercept a fleeing suspect, or who can assist the primary officer with the apprehension of the suspect, shall act reasonably and in accordance with department policy, based upon available information and his/her own observations.

456.4.3 SUPERVISOR RESPONSIBILITY

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information necessary to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public unreasonably appears to outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-pursuit activity.

456.4.4 LOCOM (LAKE OSWEGO COMMUNICATIONS) RESPONSIBILITIES

Upon being notified or becoming aware that a foot pursuit is in progress, communication personnel shall, as soon as practical, notify the field supervisor and provide available information. Communication personnel are also responsible for the following:

- (a) Clear the radio channel of non-emergency traffic.
- (b) Repeat the transmissions of the pursuing officers as needed.
- (c) Ensure that a field supervisor is notified of the pursuit.
- (d) Relay all pertinent information to responding personnel.
- (e) Contact additional resources as directed by a supervisor.
- (f) Coordinate response of additional resources to assist with the foot pursuit.

456.5 REPORTING

The initiating officers shall complete the appropriate crime/arrest reports documenting, at minimum, the following:

- (a) The reason for initiating the foot pursuit.
- (b) The identity of involved personnel.
- (c) The course and approximate distance of the pursuit.
- (d) Whether a suspect was apprehended as well as the means and methods used.
 - 1. Any use of force shall be reported and documented in compliance with the Department Use of Force Policy.
- (e) Any injuries or property damage.

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Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating officers need not complete a formal report.

Bicycle Patrol Unit

458.1 PURPOSE AND SCOPE

The Milwaukie Police Department has established the Bicycle Patrol Unit (BPU) for the purpose of enhancing patrol efforts in the community. Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas and their quiet operation can provide a tactical approach to crimes in progress. The use of bicycles at community events allows for improved visibility and interactions with citizens. The purpose of this policy is to provide guidelines for the safe and effective operation of the patrol bicycle.

458.2 POLICY

Patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control, or special events. The use of the patrol bicycle will emphasize their mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Bicycle Patrol Unit supervisor or the Patrol Sergeant.

458.3 SELECTION OF PERSONNEL

Interested sworn personnel, who are off probation, shall submit a letter of interest or e-mail to their appropriate supervisor. A copy will be forwarded to the BPU supervisor. Officers will then be confirmed by their supervisor and BPU supervisor.

458.3.1 BICYCLE PATROL UNIT SUPERVISOR

The Bicycle Patrol Unit supervisor will be selected from the rank of sergeant by the Operations Captain or his/her designee.

458.4 TRAINING

Participants in the program must complete an initial department-approved bicycle training course after acceptance into the program.

458.5 UNIFORMS AND EQUIPMENT

Bicycle officers shall wear the department-approved uniform and safety equipment while operating the patrol bicycle. Safety equipment includes department-approved helmet, riding gloves, protective eyewear and approved footwear. Soft body armor/vest is required..

The bicycle uniform consists of the standard short sleeve uniform shirt or black polo type shirt with department-approved badge and patches and black bicycle patrol pants or shorts with uniform appearance.

Bicycle officers shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

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Officers will be responsible for obtaining necessary forms, citation books and other needed equipment to keep available while on bike patrol.

458.6 CARE AND USE OF PATROL BICYCLES

Bicycles utilized for uniformed bicycle patrol shall be equipped with a rear rack and/or saddlebag(s) sufficient to carry all necessary equipment to handle routine patrol calls including report writing, vehicle storage and citations.

Bicycle officers shall conduct an inspection of the bicycle and equipment prior to use to insure proper working order of the equipment. Officers are responsible for the routine care and maintenance of their assigned equipment (e.g., tire pressure, chain lubrication, overall cleaning).

If a needed repair is beyond the ability of the bicycle officer, an email detailing the needed repairs will be forwarded to the BPU program officer and supervisor.

At the end of a bicycle assignment, the bicycle shall be returned clean and ready for the next tour of duty.

Except in the event of an emergency officers shall not remove or add components or modify the patrol bicycle without the expressed approval of the bicycle supervisor.

Vehicle bicycle racks are available should the officer need to transport the patrol bicycle. Due to possible component damage, transportation of the patrol bicycle in a trunk or on a patrol car push-bumper is discouraged.

Except when emergency circumstances preclude doing so patrol bicycles should be properly secured when not in the officer's immediate presence.

Homeless Persons

462.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that department members understand the needs and rights of the homeless, and to establish procedures to guide them during all contacts with the homeless, whether consensual or for enforcement purposes.

This policy establishes a liaison to the homeless community, addresses the responsibilities of the department member appointed to act as a liaison to the homeless, and details the need for special protection and services for homeless persons.

462.2 FIELD CONTACTS

Officers are encouraged to contact a homeless person to render aid, offer assistance, or to check the person's welfare. Officers also will take enforcement action when information supports a reasonable and articulable suspicion of criminal activity. However, such contacts shall not be used for harassment.

When encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions, such as shelter referrals and counseling, in lieu of physical arrest.

Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent such services may be appropriate.

462.2.1 CONSIDERATIONS

A homeless person will receive the same level and quality of service provided to other members of the community. The fact that a victim, witness, or suspect is homeless can, however, require special considerations for a successful investigation and prosecution. When handling investigations involving victims, witnesses, or suspects who are homeless, officers should consider:

- (a) Documenting alternate contact information. This may include obtaining addresses and telephone numbers of relatives and friends.
- (b) Documenting locations the person may frequent.
- (c) Providing victim/witness resources, when appropriate.
- (d) Obtaining sufficient statements from all available witnesses in the event that a victim cannot be located and is unavailable for a court appearance.
- (e) Whether the person may be an adult abuse victim and, if so, proceed in accordance with the Adult Abuse Policy.
- (f) Arranging for transportation for investigation-related matters, such as medical exams and court appearances.

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- (g) Whether a crime should be reported and submitted for prosecution, even when a victim who is homeless indicates no desire for prosecution.

462.3 PERSONAL PROPERTY

The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting, and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested, or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure any personal property. Otherwise, the arrestee's personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a supervisor should be consulted. The property should be photographed, and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the department Homeless Liaison Officer.

Officers who encounter unattended encampments, bedding, or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the liaison if such property appears to involve a trespass, is a blight to the community, or is the subject of a complaint. It will be the responsibility of the liaison to address the matter in a timely fashion.

462.3.1 STATE LAW ON UNCLAIMED PERSONAL PROPERTY

When a homeless individual is removed pursuant to a city policy, any unclaimed personal property stored by this department shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined. Items that have no apparent utility or are in an unsanitary condition may be immediately discarded upon removal of the homeless individual from the camp site (ORS 203.079).

Weapons, controlled substances, and items that appear to be either stolen or evidence of a crime shall be stored pursuant to department protocols and the Property and Evidence Policy.

462.4 MENTAL HEALTH ISSUES

When mental health issues are evident, officers should consider referring the person to the appropriate mental health agency or providing the person with contact information for mental health assistance, as appropriate. In these circumstances, officers may provide transportation to a mental health facility for voluntary evaluation if it is requested or offered and accepted by the person, and approved by a supervisor. Officers should consider detaining the person under civil commitment when facts and circumstances reasonably indicate such a detention is warranted (see the Civil Commitments Policy).

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462.5 ECOLOGICAL ISSUES

Sometimes homeless encampments can have an impact on the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or City departments when a significant impact to the environment has or is likely to occur. A significant impact to the environment may warrant a crime report, investigation, supporting photographs, and supervisor notification.

462.6 HOMELESS CAMPS ON PUBLIC PROPERTY

Prior to removing homeless individuals from an established campsite on public property, officers shall (ORS 203.079):

- (a) Post the area with required written notice of pending removal at all entrances reasonably identifiable. Notice should be in English and Spanish and include all required information under ORS 203.079 (e.g., location of unclaimed property, required contact information for questions regarding location of property storage).
 - 1. Notice shall be posted at least 72 hours prior to removal except in certain circumstances (e.g., camping at cemeteries).
- (b) Once notice is posted, notify the local agency that delivers social services to homeless individuals as to where the notice has been posted.

The 72-hour warning notice requirement is not necessary if officers reasonably believe that illegal activity unrelated to the camping is occurring at an established camping site or in the event of an exceptional emergency such as a possible site contamination by hazardous materials, a public health emergency, or other immediate danger to human life or safety (ORS 203.079).

Public Recording of Law Enforcement Activity

463.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

463.2 POLICY

The Milwaukie Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

463.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (ORS 165.540).
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
 - 1. Tampering with a witness or suspect.
 - 2. Inciting others to violate the law.
 - 3. Being so close to the activity as to present a clear safety hazard to the officers.
 - 4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the officers, him/herself or others.

463.4 OFFICER/DEPUTY RESPONSE

Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an

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individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

463.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of department members, such as how and where to file a complaint.

463.6 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless ("First Amendment Privacy Protection, Unlawful Acts", 42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
 2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the

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evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

Naloxone Use Policy

464.1 PURPOSE

To establish guidelines and regulations governing utilization of naloxone (Narcan) used by the Milwaukie Police Department. The objective is to treat and reduce injury and fatality from opiate overdoses.

464.2 POLICY

It is the policy of the Milwaukie Police Department that all sworn personnel are required to be trained in the use of naloxone by an instructor formally trained in partnership with Clackamas County Public Health Division.

464.3 TRAINING

464.3.1 INITIAL TRAINING

All sworn personnel will receive initial training, which will include, at minimum, patient assessment (e.g., signs/symptoms of overdose), risk factors of an overdose, rescue breathing, seeking medical attention, and the use of intra-nasal naloxone. Upon completion of training, sworn personnel will have their training recorded with the Oregon Department of Public Safety Standards and Training.

464.3.2 CONTINUING EDUCATION

Sworn personnel within the Milwaukie Police Department will receive yearly refresher training by an instructor formally trained in partnership with Clackamas County Public Health Division.

464.4 NALOXONE DEPLOYMENT

The Milwaukie Police Department will deploy its naloxone kits, at minimum, in the following primary locations:

- One kit in each patrol car equipped with an AED.
- One kit in the Evidence Room.
- One kit at the designated evidence packaging station.

464.4.1 NALOXONE USE

When deploying naloxone kits in the field, sworn personnel will: (1) Maintain universal precautions; (2) perform patient assessment as trained; (3) Determine unresponsiveness, absence of breathing and/or pulse; and (4) Inform LOCOM that patient is in a potential overdose state, and request for medical to respond. Sworn personnel shall follow protocol as outlined in the naloxone training in accordance with the Clackamas County Public Health Division.

464.4.2 MAINTENANCE/REPLACEMENT

- (a) An inspection of the naloxone kit shall be the responsibility of the personnel assigned the equipment, and will be done each shift.

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- (b) Missing or damaged naloxone kits will be reported to the department naloxone coordinator.
- (c) Where any condition necessitates the naloxone kit be taken off line, notification shall be made to the departments nalaxone coordinator to receive a replacement.
- (d) Upon administering naloxone, notification shall be made to the department's naloxone coordinator and on duty supervisor as soon as practical.

464.5 DOCUMENTATION

Upon completing the medical assist, the officer shall submit an incident report detailing the nature of the incident, the care the patient received, and the fact naloxone was deployed. The officer will also document the use of naloxone online at <https://odmap.hidta.org>. These records must be completed for statistical value of the naloxone program.

Medical Aid and Response

465.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

465.2 POLICY

It is the policy of the Milwaukie Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

465.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact LOCOM and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide LOCOM with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
 1. Signs and symptoms as observed by the member.
 2. Changes in apparent condition.
 3. Number of patients, sex, and age, if known.
 4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
 5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

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465.4 TRANSPORTING ILL AND INJURED PERSONS

Except in exceptional cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries, or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Officers should search any person who is in custody before releasing that person to EMS for transport.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes, or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

465.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported.

However, members may assist EMS personnel when EMS personnel determine the person lacks the mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a civil commitment in accordance with the Civil Commitments Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

465.6 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

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Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

465.7 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

465.8 AIR AMBULANCE

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

Once department member at the scene should be designated as the air ambulance communications contact. Headlights, spotlights and flashlights should not be aimed upward at the air ambulance. Members should direct vehicle and pedestrian traffic away from the landing zone.

Members should follow these cautions when near an air ambulance:

- Never approach the aircraft until signaled by the flight crew.
- Always approach the aircraft from the front.
- Avoid the aircraft's tail rotor area.
- Wear eye protection during landing and take-off.
- Do not carry or hold items, such as IV bags, above the head.
- Ensure that no one smokes near the aircraft.

465.9 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

An AED should only be used by members who have completed a course with published standards and guidelines for CPR and the use of an AED.

465.9.1 AED USER RESPONSIBILITY

Members who are issued AEDs for use in department vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the Administrative Captain who is responsible for ensuring appropriate maintenance.

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

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Any member who uses an AED should contact LOCOM as soon as possible and request response by EMS.

465.9.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use.

465.9.3 AED TRAINING AND MAINTENANCE

The Administrative Captain should ensure appropriate training is provided to members authorized to use an AED.

The Administrative Captain is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule.

465.10 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Only members who possess a current and valid certification may administer opioid overdose medication or members may administer opioid overdose medication in accordance with protocol specified by the physician who prescribed the overdose medication for use by the member (OAR 333-055-0110; OAR 333-055-0115).

465.10.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Administrative Captain.

Any member who administers an opioid overdose medication should contact LOCOM as soon as possible and request response by EMS.

465.10.2 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering opioid overdose medication should detail its use in an appropriate report.

The Administrative Captain will ensure that the Records Supervisor is provided enough information to meet applicable state reporting requirements.

465.10.3 OPIOID OVERDOSE MEDICATION TRAINING

The Administrative Captain should ensure training and retraining is provided to members authorized to administer opioid overdose medication. Training shall be coordinated with the Oregon Health Authority, Public Health Division (OAR 333-055-0110).

465.11 FIRST AID TRAINING

Subject to available resources, the Administrative Captain should ensure officers receive periodic first aid training appropriate for their position.

Chapter 5 - Traffic Operations

Traffic Function and Responsibility

500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Milwaukie Police Department. Information on traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are citizen requests, construction zones or special events.

500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating an officer's overall performance. The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Officers attempting to enforce traffic laws shall be in Milwaukie Police Department uniform or shall conspicuously display an official identification card showing the officer's lawful authority (ORS 810.400). Several methods are effective in the reduction of collisions:

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500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

500.3.2 CITATIONS

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

- (a) Explanation of the violation or charge.
- (b) Court appearance procedure including the optional or mandatory appearance by the motorist.
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court.

Officers at the scene of a traffic accident and, based upon the officer's personal investigation, having reasonable grounds to believe that a person involved in the accident has committed a traffic offense in connection with the accident, may issue the person a citation for that offense (Oregon Revised Statutes 810.410(4)).

500.3.3 PHYSICAL ARREST

Officer may arrest or issue a citation to a person for a traffic crime at any place within the state. Generally, physical arrests are limited to major traffic offenses such as:

- (a) Driving Under the Influence of Intoxicants.
- (b) Failure to Perform the Duties of a Driver at a traffic crash scene.
- (c) Attempting to Elude.
- (d) Reckless Driving.
- (e) Criminally Driving While Suspended.
- (f) Situations where a violator refuses or cannot satisfactorily identify him/herself and therefore cannot be issued a citation.

500.4 SUSPENDED OR REVOKED DRIVERS LICENSES

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Oregon Revised Statutes 810.410.

Officers should attempt to interview the violator to obtain evidence that the violator knew their license was suspended. Ask if the violator is still living at the address on file with DMV and if not, how long since they moved and why they haven't notified DMV of their new address.

If a computer check of a traffic violator's license status reveals a suspended or revoked drivers license and the traffic violator still has his or her license in possession, the license shall be seized

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by the officer and the violator may also be cited for Failure to Return a Suspended License if evidence shows they knew they were suspended (Oregon Revised Statutes 809.500).

500.5 HIGH-VISIBILITY VESTS

The Milwaukie Police Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

A high-visibility vest shall be maintained in the trunk of each patrol and investigation unit and in the side box of each police motorcycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored in the vehicle.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Administrative Captain should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

Traffic Collision Reporting

502.1 PURPOSE AND SCOPE

The Milwaukie Police Department prepares traffic collision reports in compliance with Oregon Revised Statutes 810.460 relating to reports of traffic accidents to the Oregon Department of Transportation and, as a public service makes traffic collision reports available to the community with some exceptions.

502.2 TRAFFIC COLLISION REPORTING

All traffic collision reports taken by members of this department shall be forwarded for approval and data entry into the Records Management System. The Records Section will be responsible for monthly reports on traffic collision statistics to be forwarded to the Oregon Traffic Safety Commission.

502.3 REPORTING SITUATIONS

502.3.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES

Traffic collision investigation reports shall be taken when a City-owned vehicle is involved in a traffic collision upon a roadway or highway wherein any damage or injury results. A general information report may be taken in lieu of a traffic collision report) at the direction of a supervisor when the collision occurs on private property or does not involve another vehicle. Whenever there is damage to a City vehicle, a Vehicle Damage Report shall be completed and forwarded to the appropriate Captain.

Photographs of the collision scene and vehicle damage shall be taken.

502.3.2 TRAFFIC COLLISIONS INVOLVING DEPARTMENT EMPLOYEES

When an employee of this department, either on-duty or off-duty, is involved in a traffic collision within the City limits of City of Milwaukie resulting in a serious injury or fatality, the Traffic Sergeant or the Patrol Sergeant may notify the Oregon State Police for assistance.

The term serious injury is defined as any injury that results in hospitalization.

502.3.3 TRAFFIC COLLISIONS INVOLVING OTHER CITY EMPLOYEES OR OFFICIALS

The Traffic Sergeant or Patrol Sergeant may request assistance from the Oregon State Police for the investigation of any traffic collision involving any City of Milwaukie official or employee where a serious injury or fatality has occurred.

502.3.4 TRAFFIC COLLISIONS ON PRIVATE PROPERTY

Traffic collision reports shall not be taken for collisions occurring on private property unless there is a death or injury to any person involved, a hit-and-run violation, or an officer issues a citation for a traffic violation. A Miscellaneous Report may be taken at the discretion of any supervisor.

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502.3.5 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS

Traffic collision reports shall be taken when they occur on a roadway or highway within this jurisdiction in the following cases:

- (a) There is a death, or injury to any person involved in the collision.
- (b) An officer issues a citation for a violation of the Vehicle Code.
- (c) The accident is initially reported by a garage operator who has received a vehicle involved in a serious accident or exhibiting evidence of having been struck by a bullet (Oregon Revised Statutes 822.600).
- (d) All hit-and-run violations as defined by Oregon Revised Statutes 811.700 and 811.705.
- (e) The collision meets the criteria for operators to submit a State Accident Report to the Department of Motor Vehicles.
- (f) An involved party requests a traffic collision report.
- (g) Whenever an officers suspects there is impairment from alcohol or drug use by the driver, regardless of whether or not the driver is arrested for DUII Drugs or Alcohol.

502.3.6 TOWING VEHICLES INVOLVED IN TRAFFIC COLLISIONS

A collision report will be required if a vehicle is damaged in a collision and a tow truck is necessary. Towing of a vehicle from a collision scene at the request of the driver when the vehicle would not otherwise be in need of towing, does not require a traffic collision report under this policy unless the incident meets the criteria in Policy Manual § 502.45.

502.4 NOTIFICATION OF TRAFFIC DIVISION SUPERVISION

In the event of a serious injury or death related traffic collision, the Patrol Sergeant shall notify the Detective Sergeant and request assistance with the investigation. Arrangements shall also be made to contact the Clackamas County District Attorney's Office. The Clackamas County CRAFT Team and the OSP Crime Lab may also be requested to assist with a fatal or potentially fatal crash.

502.5 ACCIDENT REVIEW BOARDS

Accident Review Boards will be used when :

1. There is a discrepancy of who is at fault
- 2 The at fault officer has had more than one at fault accident within the last calendar year

If the accident is at fault and does not meet 1 or 2 above there will be no accident review board.

Vehicle Towing

510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Milwaukie Police Department.

510.1.1 VEHICLE IMPOUND REQUIREMENTS

Officers may tow vehicles as a result of the following circumstances:

- (a) Abandoned vehicles.
- (b) Vehicles left standing in or partially blocking the roadway and constituting a hazard.
- (c) For safekeeping in the event the owner is arrested, cannot be located, or is incapable of caring for the vehicle.
- (d) As a recovered stolen vehicle.
- (e) A vehicle disabled in a collision.
- (f) As evidence pursuant to a criminal investigation.
- (g) When probable cause exists to believe the vehicle is subject to forfeiture under the Oregon Criminal Forfeiture Law, HB 3457, 2005.
- (h) When the operator is cited for one of the following traffic crimes and a public safety or community caretaking risk would result if the vehicle were left at the scene:
 1. Driving while suspended or revoked (Oregon Revised Statutes 809.720).
 2. Operating without driving privileges, or in violation of license restrictions (Oregon Revised Statutes 809.720).
 3. Driving while under the influence of intoxicants (Oregon Revised Statutes 809.720).
 4. Driving uninsured (Oregon Revised Statutes 809.720).

510.2 RESPONSIBILITIES

The responsibilities of those officers impounding a vehicle are as follows.

510.2.1 VEHICLES CONSTITUTING A HAZARD OR OBSTRUCTION

Officers may take custody of and tow a vehicle that is disabled, abandoned, parked or left standing unattended when it creates a hazard or obstruction. Hazards and obstructions may include vehicles that are (ORS 819.120):

- (a) Parked so that any part of the vehicle extends into the paved portion of the travel lane.
- (b) Parked so that any part of the vehicle extends into the highway shoulder or bicycle lane of any freeway ORS 819.120 (2)(b).

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Officers should use sound judgment in balancing the need to correct a hazardous situation with the potential hardship to a vehicle owner/operator before towing such a vehicle.

Officers impounding a vehicle shall complete a vehicle impound report. A copy is to be given to the tow truck operator and the original is to be submitted along with the incident report to the Records as soon as practicable after the vehicle is stored.

Records Division personnel shall promptly enter pertinent data from the completed vehicle impound report into the state's Law Enforcement Data Systems (LEDS).

Once a vehicle impound report is approved and forwarded to the Records, it shall be placed into the auto-file at the front desk to be immediately available for release or for information should inquiries be made.

510.2.2 REMOVAL OF VEHICLE DISABLED IN A TRAFFIC COLLISION

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the no preference towing company list in LOCOM.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call a no preference towing company. The officer will then have the vehicle towed to the tow company's storage lot for safekeeping, and complete a Vehicle Impound form.

510.2.3 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Police Department should not be driven by police personnel unless it is necessary to move the vehicle a short distance to eliminate a hazard, to prevent the obstruction of a fire hydrant, or to comply with posted signs.

510.2.4 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

If the request is for no preference towing, the dispatcher shall call the firm whose name appears next on the No Preference Towing Service log and shall make appropriate entries on that form to ensure that the next firm is called on the next request.

510.2.5 NOTICE TO OWNERS

Once the vehicle is impounded, Records personnel shall mail a copy of the approved Vehicle Impound Report form, along with information describing the location of the vehicle and the procedures for its release, to the legal and registered owners of the stored vehicle within 48 hours after it has been stored, unless the vehicle has been previously released (ORS 819.180).

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510.3 TOWING SERVICES

The City of Milwaukie periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

- (a) When a vehicle is being held as evidence in connection with an investigation
- (b) When it is otherwise necessary to impound a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal from the streets of vehicles obstructing traffic in violation of state or local regulations

Nothing in this policy shall require the Department to tow a vehicle.

510.3.1 NO PREFERENCE TOW SERVICES

Upon proper application, the department may approve qualified towing services to be called when a citizen needs towing but has no preference as to which service to call.

Any complaint alleging a violation or other misconduct by a no preference operator shall be referred to the police department for investigation. The department may periodically review the performance of no preference operator and companies.

The department will assist citizens by calling any towing company desired. If the citizen has no preference and requests towing service, the authorized department towing firm shall be called.

All officers are specifically prohibited from directly or indirectly soliciting for or recommending any garage or tow service.

510.4 IMPOUNDS RELATED TO CRIMINAL INVESTIGATIONS

Officers should impound vehicles that are needed for the furtherance of an investigation or prosecution of a case or are otherwise appropriate for seizure under ORS 133.535. State law requires the impounding officer to take reasonable steps to protect against loss or damage to impounded vehicles and any contents that may have been taken as evidence (ORS 133.537).

Officers should make reasonable efforts to return a recovered stolen vehicle to its owner rather than store it, so long as the vehicle is not needed for evidence. If a recovered stolen vehicle is towed, the officer shall share the owner's contact information, including the person's home address and telephone number, with the towing service that assumes control of the vehicle (ORS 98.857).

510.5 IMPOUND AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by leaving the vehicle secured and lawfully parked at the scene or storing the arrestee's vehicle subject to the exceptions described below. However, the vehicle shall be stored, subject to applicable laws and warrant requirements, whenever it is needed for the furtherance of an investigation or prosecution of the case or when the community caretaker doctrine, reasonably suggests that the vehicle should be stored. For example, the vehicle would present a traffic hazard if not removed or, due to a high crime area, the vehicle would be in jeopardy of theft or damage if left at the scene.

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While the Oregon Revised Statutes may authorize the impoundment of a vehicle for issues such as driving with a suspended or revoked license (ORS 809.720), impounds are only authorized if, in such cases, leaving the vehicle would create a hazard, obstruction or a risk of loss.

The following are examples of situations where the arrestee's vehicle should not be stored, provided the vehicle can be legally parked, left in a reasonably secured and safe condition and the vehicle is not needed for the furtherance of an investigation:

- The vehicle is parked on private property on which the registered owner or operator is legally residing, or the property owner does not object to the vehicle being left parked at that location.
- When the arrestee or a passenger is the registered or legal owner of the vehicle and requests that the vehicle be released to a person who is present, willing and able to legally take control of the vehicle.
- Whenever the vehicle is legally parked and otherwise does not need to be stored and the owner requests that it be left at the scene.

In such cases, the handling employee shall inform the arrestee and note in the report that the Department will not be responsible for theft or damages.

510.6 VEHICLE INVENTORIES

A. The contents of all vehicles impounded by a Police Officer will be inventoried. The inventory shall be conducted before arrangements are made for the vehicle to be towed.

B. The purpose for the inventory of an impounded vehicle will be to:

1. Promptly identify property to establish accountability and avoid spurious claims to property
2. Assist in the prevention of theft of property
3. Locate toxic, flammable, or explosive substances
4. Reduce the danger to persons and property
5. Locate weapons
6. To protect the suspect's or vehicle owner's personal property while in police custody and ensure its return

C. Areas of an impounded vehicle to be inventoried shall include:

1. The entire passenger compartment including but not limited to:
 - a. Any pockets or storage areas found on doors or seats
 - b. Any console areas between seats or in the dash
 - c. Under floor mats and under seats
 - d. Any other areas that are part of the vehicle and designed to store items.
2. Hatchback areas

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3. Glove boxes

4. Trunks

5. Car-Top containers

6. Flat-bed areas

D. Closed containers, portable or otherwise, that are found within an impounded vehicle shall be inventoried before such containers or the contents of such containers are released as follows:

a. Containers normally used to carry money and/or valuables. Examples include, but are not limited to; money bags, deposit bags, purses, coin purses, wallets, billfolds, money belts, fanny packs, briefcases, and computer cases

b. Clear containers. This includes any container the content of which can be viewed in whole or in part without opening the container

c. Containers that appear to contain hazardous or other materials imminently harmful to persons or property

2. Where a container is not otherwise subject to being opened, the officer shall seek consent to open the container to inventory its content and shall inquire if the container contains any valuables. If proper consent is obtained or if the container is identified as containing valuables it shall be opened and the contents inventoried shall be listed in the inventory as a container with a description of its outward appearance.

E. Any locked compartment described in subsection B of this section or locked container subject to inventory under subsection C of this section shall be unlocked and inventoried if the keys are available and shall be released with the vehicle to a third party towing company, or an unlocking mechanism is located within the vehicle.

F. Upon completion of the inventory, the Police Officer will complete a report as directed by the Police Chief.

G. Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt shall be given directly to the owner or operator of the vehicle, or, if such person is not present, shall be left in a conspicuous place inside the vehicle and a copy shall be mailed to the registered owner of the vehicle. The valuables will be dealt with in such a manner as directed by the Police Chief.

H. The inventory is not a search for evidence of a crime, however, officers shall seize evidence or contraband located during the inventory. Items should be scrutinized to the extent necessary to complete the inventory.

510.7 VEHICLE SEARCHES

Vehicles may be searched when one or more of the following conditions are met:

- (a) When probable cause to search the vehicle exists.

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- (b) When it is reasonable to believe that the vehicle contains evidence of the offense of the arrest of the occupant(s).
- (c) With consent of the operator.
- (d) Incident to an arrest if the occupant(s) of the vehicle have not been secured and remain within reaching distance of the passenger compartment.
- (e) To search for weapons when reasonable suspicion exists that a weapon may be present.
- (f) When necessary to examine the vehicle identification number or to determine the ownership of the vehicle.
- (g) Under emergency circumstances not otherwise enumerated above.
- (h) Pursuant to a valid search warrant.

510.8 SECURITY OF VEHICLES AND PROPERTY

After a thorough inventory of the vehicle has been completed and all contraband, evidence and weapons have been removed the officer should make reasonable accommodations to permit a driver or owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions).

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, search personnel shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

510.9 RELEASE CRITERIA

A vehicle impounded under this section shall be released to a person entitled to lawful possession of the vehicle upon compliance with the following:

- (a) Proof that a person with valid driving privileges will be operating the vehicle.
- (b) Proof of compliance with financial responsibility requirements for the vehicle.
- (c) Payment of the Milwaukie Police Department administrative fee and any towing and storage charges.
- (d) A security interest holder in the vehicle is not required to comply with (a) and (b) and may obtain release by paying the administrative fee, towing and storage fees.

510.10 VEHICLES RELATED TO CRIMINAL INVESTIGATIONS

Officers should tow vehicles that are needed for the furtherance of an investigation or prosecution of a case, or that are otherwise appropriate for seizure as evidence (ORS 133.535).

Officers should make reasonable efforts to return a recovered stolen vehicle to its owner rather than have it towed, as long as the vehicle is not needed for evidence.

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510.10.1 STATE REQUIREMENTS

The impounding officer should take reasonable steps to protect against loss or damage to impounded vehicles and any contents that may have been taken as evidence (ORS 133.537).

If a recovered stolen vehicle is towed, the officer shall share the owner's contact information, including the person's home address and telephone number, with the towing service that assumes control of the vehicle (ORS 98.857).

Vehicle Impound Hearings

512.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings.

512.2 IMPOUND HEARING

When a vehicle is impounded by any member of the Milwaukie Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent.

512.2.1 HEARING PROCEDURES

When requested, a hearing will be held at the Milwaukie Police Department within four days of the receipt of the request. The Department will appoint a Hearing Officer who will conduct the hearing and render a judgment. The employee who caused the removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on an impounded vehicle shall be submitted in person, writing, or by telephone within ten days of the date appearing on the notice. The person requesting the hearing may record the hearing at his/her own expense.

The vehicle impound hearing officer shall consider all information provided and determine the validity of the impound of the vehicle in question regarding law and department policy and then render a decision. The Department will have the burden of proving by a preponderance of evidence.

If a decision is made that the vehicle was impounded within the law and department policy, the hearing officer shall advise the inquiring party that they may pursue civil litigation, if they so desire.

A decision that the vehicle was not impounded in a lawful manner or within department policy will require that the vehicle in impound be released immediately. Towing and storage fees will be paid at the Department's expense (Oregon Revised Statutes 809.716).

If a decision is made that the vehicle was not impounded in a lawful manner or within department policy, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Division Commander. The hearing officer will recommend to the appropriate Division Commander that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

Impaired Driving

514.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

514.2 CHEMICAL TESTING

Most blood, breath, and urine tests will be administered within the jail. If a suspect is hospitalized, a blood sample may be taken at the hospital. A suspect who is unable to submit to a chemical test because of any of the following shall not be considered as refusing to comply with the provisions of Oregon Revised Statutes 813.100:

- Because of the inability of the Department to furnish a selected test
- If there are verifiable medical reasons for non-compliance
- If an attending physician refuses to allow it

514.2.1 TESTING OF CONSCIOUS SUSPECT AT A HOSPITAL

Based on probable cause, the officer should place the hospitalized but conscious suspect under arrest in the presence of hospital personnel and advise the attending physician of the intention to administer a chemical test to the suspect. Unless the attending physician objects for medical reasons, the blood or urine samples will be collected in the prescribed manner. If the only charge against the person is DUI, the Implied consent law does not authorize the taking of blood without the person's consent

If the officer has probable cause to believe the person has committed some other felony such as negligent homicide, manslaughter or vehicular assault and the person's blood alcohol level is relevant to the offense, the officer may take a blood sample without consent, based on probable cause and exigent circumstances.

514.2.2 TESTING OF UNCONSCIOUS DRIVER AT A HOSPITAL

When there is probable cause to believe that an unconscious driver is under the influence, there is no method of informing the individual of the arrest; nor can there be any verbal consent on the part of the suspect to allow one of the two possible chemical tests at the hospital to determine his/her blood alcohol level. As the person is incapable of expressly consenting the officer may obtain a chemical test without the requirement of consent. The officer shall advise the attending physician of the intention to collect a sample of the suspect's blood as evidence. If the physician does not object based on medical reasons, the blood will be collected in the prescribed manner (Oregon Revised Statutes 813.140(2)).

514.2.3 EXIGENT CIRCUMSTANCES

Under the emergency doctrine, the level of influence of an intoxicant can be important evidence. Since it is not of a permanent nature, it will be lost if not seized immediately. Policy Manual §§ 514.21 and 514.22 of this chapter come within the guidelines of exigent circumstances. If a second

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sample of blood, taken at a later time, is required to demonstrate whether the level of intoxicants is increasing or decreasing over time, a search warrant will most likely be required.

514.2.4 URINE TESTS

Oregon's Implied Consent Law also provides that drivers have similarly consented to a chemical test of their urine for the purposes of determining the presence of controlled substances or an inhalant, if the person is arrested for Driving Under the Influence of Intoxicants and:

- (a) A person takes a breath test and discloses a blood alcohol content of less than .08%, or
- (b) The person is involved in an accident resulting in injury or property damage. Under this paragraph, an officer may request a urine test regardless of whether a breath test was offered or taken, or its results

The officer may not request the urine test unless certified as having taken the eight (8) hour class: Recognition of Drug Impaired Driving.

514.2.5 COLLECTING BLOOD EVIDENCE

Only a certified phlebotomy technician, licensed physician, or nurse may withdraw a blood sample. Whether such evidence is collected at the Department or the jail, the withdrawal of the blood sample shall be witnessed by the assigned officer. On rare occasions a situation might arise where a medical doctor or registered nurse would be asked to obtain blood samples from a suspect

514.2.6 COLLECTING BREATH AS EVIDENCE

If the arrested person chooses a breath test and it can be accomplished without undue delay, the arrested person shall first be transported to the jail for booking preparatory to the collection of breath samples. At the jail, an officer trained in the use of the alcohol breath machine will record the blood alcohol level by obtaining samples of the suspect's breath.

514.2.7 COLLECTING URINE AS EVIDENCE

If the arrested person's urine is necessarily collected as evidence, the procedure will be as follows:

- (a) The specimen container shall be marked accordingly with the suspect's name, case number, and the name of the witnessing officer.
- (b) The urine kit shall then be placed in the evidence refrigerator to await transportation to the crime laboratory.
- (c) The person shall be given privacy and may not be observed by an officer when producing the sample (ORS 813.131(3)).

514.2.8 IMPLIED CONSENT

Oregon Revised Statutes 813.100 provides that licensed drivers have agreed as a condition of receiving a license to drive that, based on probable cause that they were driving while under the influence of intoxicants, they will consent to a chemical test of their breath, or of their blood if they are receiving medical care at a medical facility immediately after a motor vehicle accident. Normally the test will be a breath test conducted at the department or at the jail.

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If an arrested person refuses a breath test after being informed of the consequences and rights pertaining to the test, no other test will be given. If the arrested person takes a breath test, they may request to have an additional chemical test at their own expense. The department will make a reasonable attempt to accommodate that request if made.

If the suspected intoxicated person has been involved in an accident and is at the hospital receiving treatment, and therefore unable to take a breath test, an officer may obtain a chemical test of the blood to determine the amount of alcohol in any person's blood or a test of the person's blood or urine, or both, to determine the presence of a controlled substance or an inhalant in the person as provided in the following:

- (a) If, when requested by an officer, the person expressly consents to such a test
- (b) From a person without the person's consent if:
 - 1. The officer has probable cause to believe that the person was driving while under the influence of intoxicants and that evidence of the offense will be found in the person's blood or urine; and
 - 2. The person is unconscious or otherwise rendering the person incapable of expressly consenting to the test or the test requested (Oregon Revised Statutes 813.140)

Traffic Citations

516.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

516.2 RESPONSIBILITIES

The Traffic Sergeant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records Department shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

516.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued. Any request from a recipient to dismiss a citation shall be referred to the Traffic Division Manager. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Division Manager may request the Operations Captain to recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer may request the court to dismiss the citation. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required. The citation dismissal shall then be forwarded to the Operations Captain for review.

516.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Records Department.

516.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be forwarded to the court having jurisdiction and to the recipient of the citation.

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Traffic Citations

516.6 DISPOSITION OF TRAFFIC CITATIONS

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be filed with the Records.

Upon separation from employment with the this department, all employees issued traffic citations books shall return any unused citations to the Records.

516.7 JUVENILE CITATIONS

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency, and the type of offense should be considered before issuing the juvenile a citation.

Disabled Vehicles

520.1 PURPOSE AND SCOPE

Public safety, and the Milwaukie Police Department's commitment to service, requires that officers place a high priority on assisting disabled motorists. This policy provides guidelines for achieving that objective.

520.2 OFFICER RESPONSIBILITY

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

520.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of departmental resources, and the vulnerability of the disabled motorist.

520.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

Parking Violations

524.1 PARKING VIOLATIONS

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Oregon Revised Statutes or Milwaukie City Ordinance regulating parking violations and abandoned vehicles left parked or standing in the public way.

Abandoned vehicle identification, custody, removal, authority and rights will fall under the guidelines and under the authority of Oregon Revised Statutes 819.100 through 819.440 and is so incorporated in Milwaukie City Ordinance. Also refer to policies 510 and 512 for vehicle towing and impound hearings.

Vehicles not associated with the public right away and on private property will be referred to Milwaukie Code Enforcement, unless immediate attention is needed.

Parking violations other than abandoned vehicles will be governed by Oregon Revised Statutes and Milwaukie City Ordinances.

524.2 ABANDONED VEHICLES

Vehicles suspected of being parked or left standing upon any public way for a period in excess of 24 hours without authorization by statute or local ordinance are deemed to be an Abandoned Vehicle. Upon investigation and notice (warning) of intent to tow is applied to a vehicle and it is determined to be abandoned, it may be towed and stored as allowed by law. Refer to Oregon Revised Statutes 819.100 through 819.440.

GENERALLY

- (a) Investigate (look over vehicle, contact neighbors, registered owner etc.) to determine if vehicle is disabled or abandoned and left parked or standing in public way (street or highway) for an excess of 24 hours
- (b) Apply notice intent to tow warning (Orange Sticker) to drivers side window that is easily noticed but will not impair the vision of a driver.
- (c) Mark tires at 12 O'clock(below fender) or notate clock position of front and rear tire stems.
- (d) Take a case number and annotate the investigation in a report. A good faith effort will be made to identify and contact the owner of any vehicle prior to it's being towed. Such effort should be annotated as part of the investigation.
- (e) Return in 24 hours and 5 minutes and tow vehicle if it has not moved.
- (f) Complete report and submit to records.

This policy does not preclude the immediate removal of a vehicle that constitutes a hazard or obstruction and as outlined in ORS 819.120.

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Parking Violations

524.2.1 MARKED VEHICLE FILE

The Traffic Division shall be responsible for maintaining a file for all Marked Vehicle Cards.

Parking control officers assigned to the Traffic Division shall be responsible for the follow up investigation of all 72-hour parking violations noted on the Marked Vehicle Cards.

524.2.2 VEHICLE IMPOUND

Any vehicle in violation shall be impounded by the authorized towing service and an Impounded Vehicle Report shall be completed by the officer authorizing the towing of the vehicle.

The Impounded Vehicle Report form shall be submitted to the Records immediately following the towing of the vehicle. It shall be the responsibility of the Records to enter the vehicle into LEDS.

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records to determine the names and addresses of any individuals having an interest in the vehicle through DMV. Records personnel shall mail a copy of the approved Vehicle Impound Report form along with information describing the location of the vehicle, the procedures for its release, and the owner's right to a hearing, to the legal and registered owners of the stored vehicle within 48 hours after it has been impounded, unless the vehicle has been previously released (Oregon Revised Statutes 819.180(1)).

Vehicles Impounded under this section may be subject to hearing procedures outlined in Policy Manual § 512.

524.3 VEHICLE DISPOSAL

If, after 30 days from the custody, the vehicle remains unclaimed and the towing and storage fees have not been paid, and if no request for a vehicle impound hearing has been made, the Department may provide the lien holder storing the vehicle with authorization to dispose of any vehicle which has been appraised at a value of \$500 or less.

If the vehicle is appraised at more than \$500, the vehicle and contents shall be sold at public auction (Oregon Revised Statutes 819.210).

524.3.1 APPRAISAL

Vehicles disposed of under Policy Manual § 524.3 must be appraised by an appraiser certified by the Department of Transportation (Oregon Revised Statutes 819.215).

524.4 IMPOUND HEARING

When a vehicle is stored under this section by any member of the Milwaukie Police Department, a hearing will be conducted upon the timely request of any person who reasonably appears to have an interest in the vehicle.

524.4.1 HEARING PRIOR TO IMPOUNDMENT

If an interested person requests a hearing prior to the impoundment of the vehicle, the vehicle will not be towed until the hearing is held, unless it constitutes a hazard.

Chapter 6 - Investigation Operations

Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to provide Milwaukee Police Department officers with legally sound procedures for conducting Criminal investigations along with custodial interrogations for both juveniles and adults.

600.2 POLICY

Custodial interrogations of suspects and the statements and confessions that are elicited are vitally important in the preparation of criminal cases. However, to be admissible as evidence, statements and confessions shall be given freely, voluntarily and with due consideration for the suspects right to silence along with their right to counsel. Therefore, it is a policy of in Milwaukee Police Department that all officers observe due process constitutional respects and guard any charge charges of Coercion or intimidation during interrogation.

600.2.1 DEFINITIONS

CUSTODIAL INTERVIEW- An interview which the person questioned is in custody and is required to be advised persons constitutional rights.

CUSTODY SITUATION- exists when an officer tells a suspect that they are under arrest or is not free to leave. A functionally equivalent situation exists that reasonable person in suspects position would feel that their freedom of action has been restricted to the same degree as a formal arrest.

INTERROGATION - includes direct questioning of aspect of our crime or suspected crime as well as any words statements or actions by officers that the officer should know are reasonably likely to elicit an incriminating response from the suspect

LAW ENFORCEMENT FACILITY- means a courthouse building or premise that is a place of operation for a municipal Police Department County Sheriff's Office or other law enforcement agency at which person contained in connection with a juvenile delinquency petition or criminal charge.

600.3 INTERVIEWS AND INTERROGATIONS, GENERALLY

There are two different methods of obtaining verbal and non verbal information from victims, witnesses, and suspects:

A. INTERVIEWS

Interviews are usually the main source of information in an investigation. Interviews are usually conducted with victims and witnesses. Interviews are sometimes conducted with suspects depending on their level of cooperation. The purpose of an interview is to determine the facts and identify people who are being deceptive.

Investigators are able to use interviews to enhance their investigation by observing and interpreting verbal and non verbal responses to specific questions.

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Interviews are conducted in a non-threatening manner. All victims and witnesses should be contacted and interviewed to ensure the Investigator is examining all facets of the incident. It may be necessary for the people involved to be interviewed more than once. The investigating officer will always be courteous and act within Milwaukie Police Department standards. Interviews may be conducted either at the time of the initial contact on the scene or may be scheduled at a later time convenient for both parties, if possible.

During the initial investigation, the officer should explain to the victim the procedures involved in the prosecution of their case and the victims possible role in these proceedings.

B. INTERROGATIONS

Interrogations can be a useful tool in the investigation process. Suspects are interrogated when the investigating officer has obtained information that causes the officer to believe the person is a suspect or one of the suspects.

Suspects can be interrogated in the field at the Police Department or at a Correctional Facility. The officers should have as much control over the location and suspect as possible. There should be Minimal distractions.

Coercion threats and violence will not be used in any interview or interrogation. Constitutionally guaranteed rights against self incrimination shall be followed under state and federal laws.

During the investigation process the Officers should compare the suspects modis operandi (MO) with other known crimes to check if the suspect may have committed those crimes.

600.3.1 INTERVIEWING OF JUVENILES

.Anytime a juvenile is in custody and may otherwise feel they are not free to leave the interview, or is compelled to speak, the officer will advise the juvenile out their constitutional rights.

- (a) (a) the officer should take steps to make sure the information provided by his voluntary considering the totality of the circumstances.
- (b) officer should take into consideration age, experience, education, any recent alcohol, sleep deprivation and whether the juvenile has the competency to understand the consequences of waiving these constitutional rights.
- (c) The officer should not make any promises or threats to the juvenile during the interview.
- (d) During custodial interviews at a law enforcement facility, the officer should consider if feasible concealing their duty weapon and wearing plain clothes.
- (e) The interaction between the deputy and the juvenile should not be antagonistic or oppressive.
- (f) The officer should see that the juvenile is allowed to discuss the matter with a reasonable degree of comfort. Reasonable request for food drink and use of a restroom should be honored.
- (g) Juvenile interviews should be reasonable in duration with appropriate breaks.

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- (h) The officer should not intentionally use information known by the officer to be false to elicit a statement from the juvenile pursuant to SB418 2021, a statement made by a juvenile in connection with a misdemeanor or felony will be presumed to be involuntary if the court determines that the peace officer intentionally used information known by the officer to be false to elicit the statement.
- (b) If at any time during the interview the juvenile asked to speak to their parent or guardian before answering questions the officer should discontinue questioning until the juvenile has been given the opportunity. Unless the juvenile specifically invokes the right to right remain silent, the officer may resume questioning after parental consultation, but should advise of rights again before resuming questioning. The officer should take care that the parent is not asked to be an agent of the police during parental consultation.
- (c) If at any time a juvenile is in police custody, or is being interviewed by the police and the juveniles parent or guardian contacts the police to invoke the juveniles right to remain silent, the youth shall be informed of their parents request so that they remain silent, then re-read their Miranda rights and ask if they wish to continue with the interview without first making contact and seeking advice from the district attorney's office.
- (d) Pursuant to ORS133.402(2021), custodial interviews conducted in a law enforcement facility of persons under 18 years of age in connection with an investigation into a misdemeanor or a felony or into an act that if committed by an adult would be a misdemeanor or a felony shall be recorded. If the deputy is equipped with a body-worn camera, the interview shall be recorded outside of a law enforcement facility.
- (e) In order to minimize disruption at school and in cooperation with school officials officers who interview or arrest a student at school should comply with procedures established by the school district involved, so long as those procedures do not conflict with law enforcement statutory authority, officers shall ensure parental notification is made within a reasonable amount of time when a child is interviewed as a suspect in a criminal investigation this notification can be made before or after the interview depending on the circumstances surrounding the investigation.
- (f) Pursuant to SB386 2021, unless the child safety would be compromised deputy officers who interview a child as a witness not a victim or suspect to a child welfare criminal or delinquency investigation are required to notify the child parent of the interview. Child witness means an unmarried person who is under 1808 and who is not the suspect welfare criminal or delinquency investigation.
- (g) Oregon revised statute 419 B.028 part of Karly's law requires the immediate photographing of suspicious physical injuries. Any conversation with the child being photographed should consist of just a few questions or fit within the above listed criteria so as not to become an unreasonable seizure.

600.3.2 CUSTODIAL STATEMENTS AND CONFESSIONS.

1. Constitutional rights Miranda warnings are required and shall be administered prior to custodial interview.
2. The following represent examples of situations that are not custodial and do not require issuance of Miranda

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- (a) Questioning during a routine traffic stop or for a minor violation to include driving while intoxicated (DUI stops) until a custodial interrogation begins.
- (b) During routine questioning at the scene of an example crime? Intended via list incriminating responses.
- (c) During voluntary appearances at the Police Department.
- (d) When information or statements are made spontaneously voluntarily and without prompting by officers. (Note: Follow-up questions That exceeds simple request or clarification of initial statements may require Miranda warnings.)

600.3.3 ADMINISTERING MIRANDA WARNINGS

- (a) Miranda warning shall be read by officers from the card containing this information if practical to all persons subjected to custodial interrogation.
- (b) Officers shall ensure that suspects understand that right to remain silent and their right to attorney.
- (c) Officers arresting deaf or non-English speaking suspects shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with state and federal law.

600.3.4 [INVOKING THE RIGHT TO SILENCE

- (a) When a suspect invokes they're right to remain silent, all interrogation shall terminate immediately.
- (b) Suspects who are not represented by an attorney may not be interrogated after invoking the right to silence unless the suspect indicates a desire to talk to officers and that desire is in no way coerced. The officer should then re administer the constitutional rights Miranda wings ensure the suspect have affirmatively waived their right.
- (c) Case law has established that following a substantial break, a suspect who previously invoked their right to remain silent maybe recontacted and another interview attempted. Officers should consult their supervisor and/ or a deputy District Attorney prior to taking this action.

600.3.5 INVOKING THE RIGHT TO COUNCEL

- (a) When a suspect makes reference to counsel but thier intentions are unclear, officers may question the suspect further to clarify their intentions.
- (b) When a suspect invokes thier right to counsel all interrogation shall cease immediatley. The suspect may not again be interrogated about the crime for which they are charged unless their attorney is present at the questioning or the suspect initiate new contact with an officer.
- (c) In this latter case the constitutional rights Miranda warning shall again be administered, and a waiver obtained before any questioning may take place. Officers shall also document and if possible, obtain written verification that the suspect initiated communication.

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- (d) officers shall cooperate in any reasonable way with efforts by counsel to contact or meet with suspect in custody.

600.3.6 DOCUMENTING STATEMENTS AND CONFESSIONS

1. The circumstances surrounding the conduct of interrogations and recording of confessions shall be fully documented. This includes but is not necessarily limited to:

- a. Location date, time of day, and duration of interrogation;
- b. The identities of deputies or others present,
- c. constitutional rights for random warnings given suspect response and waivers provided if any and;
- d. the nature and duration of breaks and questioning and whether the suspect was provided food drink use of lavatories or for other purposes.

2. Recording of custodial interviews required under Oregon revised statute 133.400. A custodial interview conducted by an officer in a law enforcement facility shall be electronically recorded if the interview is conducted in connection with an investigation into aggravated murder or a ballot measure 11 crime.

- a. Aggravated Murder as defined by ORS.163.095
- b. Ballot Measure 11 crimes are listed in ORS 137.700 or 137.707

600.4 COLLECTION OR MAINTENANCE OF SPECIFIC INFORMATION

The collection or maintenance of information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership shall occur only when the information directly relates to a criminal investigation and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct (ORS 181A.250).

600.5

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

600.5.1 CIVILLIAN NON-SWORN MEMBER RESPONSIBILITIES

A [civilianNonSworn] member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of [an officer-deputy] shall be requested.

600.6 POTENTIALLY EXCULPATORY EVIDENCE OR FACTS

Officers must include in their reports adequate reference to all material evidence and facts which are reasonably believed to be exculpatory to any individual in the case. If an officer learns of

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potentially exculpatory information anytime after submission of the case, the officer must notify the prosecutor as soon as practical.

Evidence or facts are considered material if there is a reasonable probability that they may impact the result of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the case file.

600.7 PHOTOGRAPHIC IDENTIFICATION OF SUSPECTS

When practicable, the employee composing and the employee presenting the photo lineup should not be directly involved in the investigation of the case. When this is not possible, the employee presenting the lineup must take the utmost care not to communicate the identity of the suspect in any way.

The following precautions should be taken by any employee presenting a photographic lineup:

- (a) The person of interest or suspect in the photo lineup should not stand out from the other persons depicted in the photos.
- (b) At no time prior to, during or after the presentation of a photographic lineup should it be suggested to a witness that any person depicted in the lineup is a suspect or was in any way connected to the offense.
- (c) When practicable, the employee presenting the photographs to a witness should not know which photograph depicts the suspect.
- (d) The employee presenting the photographs to a witness should do so sequentially (i.e., showing the witness one photograph at a time) and not simultaneously. The witness should view all photographs in the lineup.
- (e) The position of the suspect's photo and filler photos should be placed in a different random order for each witness.
- (f) In order to avoid undue influence, witnesses viewing a photographic lineup should do so individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the photographic lineup with other witnesses.
- (g) An admonishment should be given to each witness that the suspect's photograph may or may not be among those in the lineup and that the witness is not required to make an identification.

The procedure employed and the results of any photographic lineup should be documented in the case report. A copy of the photographic lineup presented to the witness should be included in the

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case report. Witness comments of how certain he/she is of the identification or non-identification should be quoted in the appropriate report.

600.7.1 PHOTO IDENTIFICATION FORM

The Criminal Investigations supervisor shall be responsible for the development and maintenance of a photographic lineup identification form consistent with this policy.

The form, at minimum, shall contain the following:

- The date, time and location of the lineup procedure
- The name and identifying information of the witness
- The name of the investigator administering the lineup procedure
- The names of all of the individuals present during the lineup
- An admonishment that the suspect's photograph may or may not be among those in the lineup and that the witness is not required to make an identification
- A signature line where the witness acknowledges that he/she understands the lineup procedures and instructions

The photo identification form should be reviewed at least annually and modified when necessary.

600.8 DISCONTINUATION OF INVESTIGATIONS

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
 1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
 2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted or requested, and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.

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- (f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Violence, Child Abuse, Sexual Assault Investigations and Adult Abuse policies may also require an arrest or submittal of a case to a prosecutor.

600.9 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

600.10 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

Information obtained via the Internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and Criminal Organizations policies).

600.10.1 ACCESS RESTRICTIONS

Information that can be accessed from any department computer, without the need of an account, password, email address, alias or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any Internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

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Information gathered from any Internet source should be evaluated for its validity, authenticity, accuracy and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an Internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

600.10.2 INTERCEPTING ELECTRONIC COMMUNICATION

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

600.11 MODIFICATION OF CHARGES FILED

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Captain or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

Criminal Intelligence Files

601.1 PURPOSE AND SCOPE

The Criminal Intelligence file will consist of stored information on the activities and associations of individuals who based on reasonable grounds are suspected of being or having been involved in the actual or attempted planning, organizing, threatening, financing, or commission of criminal acts; or based upon reasonable grounds are suspected of being or having been involved in criminal activities with known or suspected crime figures, or;

Organizations, businesses, and groups which based upon reasonable grounds are suspected of being or having been involved in the actual or attempted planning, organizing, threatening, financing, or commission of criminal acts; or based upon reasonable grounds are suspected of being or having been illegally operated, controlled, financed, or infiltrated by known or suspected crime figures.

601.1.1 CONTENT

No information will be collected or maintained about the political, religious, racial or social views, associations, or activities of any individual, group, association, organization, corporation, business, or partnership unless such information directly relates to an investigation or criminal activities, and there are reasonable grounds to suspect the subject of the information is , or may be, involved in criminal conduct. Refer Oregon Revised Statute 181.575.

Reasonable grounds means reasonable suspicion. Reasonable suspicion is suspicion that is reasonable under the the totality of the circumstances. It is less than probable cause and more than mere suspicion.

The Criminal Intelligence File will consist of four major crime files to include and where applicable will be cross referenced. Each file will contain information as defined by file title.

- (a) Gang File
- (b) Person File
- (c) Property File
- (d) Drug File

601.1.2 CLASSIFICATION

In order to protect sources and individual rights to privacy, information retained in the criminal intelligence file is classified to indicate the degree to which it must be kept secure. The "Third Agency" rule applies, which means that any information received from an outside agency and filed by this Department will remain the property of the originating agency. Classification and access to such information will be through the originating agency who will determine if it is releasable or not. Any requests for "Third Agency" records under the Freedom of Information Act or the Oregon Public Records law will follow this rule. Either the outside agency approves the release or the requester is sent to the originating agency for disposition of their records request. Internal access

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to information in the Criminal Intelligence File is on a "need to know", "right to know" including information from "third Party" sources. Classification of the information will be as follows.

(a) **Sensitive**

1. Significant Law enforcement cases currently under investigation.
2. Informant identification.
3. Criminal intelligence that require strict dissemination and release criteria.
4. Designated sensitive by another law enforcement agency.
5. Cannot be disseminated without the approval of the Chief of Police or his designee.

(b) **Confidential**

1. Not designated sensitive.
2. Is not classified sensitive and is for law enforcement intelligence use only.
3. Ongoing investigatory projects and open investigations.
4. Describes law enforcement strategies and techniques.
5. Designated confidential by another law enforcement agency.

(c) **Restricted**

1. Need for high level security no longer exists or nonconfidential information prepared for/by law enforcement agencies.
2. Can be released for general Law enforcement use.

(d) **Unclassified**

1. Identifies documents of a public nature which on it's original form, the general public had direct access(i.e., birth certificates, corporation papers, etc.) and newspapers, magazines, periodicals, etc. dealing with specified criminal categories.

601.1.3 FILES

All information to be retained in the Criminal Intelligence File must meet the guidelines by definition and content. Information will only be retained in one of the three categories and retained, purged, or destroyed as indicated.

Permanent File: Includes individuals, groups, businesses and organizations that have been positively identified by one or more distinguishing characteristics and criminal involvement.

This file may be retained for five years and then it's information must be reevaluated for continued acceptability.

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Temporary File: Includes individuals, groups, businesses and organizations which have not been positively identified by the requirements but there is still strong reasonable grounds (suspicion) that the information is valid.

This information may be retained for one year, until such time the data is verified to meet the requirements of the permanent file or purged and destroyed.

Working File: This is the receiving phase of newly required information to be evaluated for acceptability and placed into a temporary or permanent file.

The retention period for this information is thirty (30) working days, after which the information is purged and destroyed.

601.1.4 REVIEW AND INSPECTION

The Intelligence file will be reviewed for compliance for lawfully entry, retention, and destruction following all applicable Oregon Revised Statutes and Oregon Administrative Rules by the Detective Sergeant. Spot inspections may be performed without notice by a Division Commander or above.

Asset Forfeiture

606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure and liquidation of assets associated with specified controlled substances. This policy applies to forfeited or seized assets in the form of currency, real estate, automobiles, boats, aircraft, or any other items of value.

606.2 ASSET SEIZURE AUTHORITY

Oregon Revised Statutes 133.535 specifies that any peace officer having probable cause, may seize all evidence or other information concerning the commission of the criminal offense; contraband, the fruits of the crime, or things otherwise criminally possessed; property that has been used, or is possessed for the purpose of being used to commit or conceal the commission of an offense.

In addition to seizures authorized by Oregon Revised Statutes 133.535, an officer may seize property without a court order if the officer has probable cause to believe that the property is subject to criminal forfeiture (Oregon Revised Statutes 131.561(2)).

An officer may also seize property pursuant to an order of the court. Forfeiture Counsel or a seizing agency may apply to the court for an ex-parte order directing seizure of specific property (Oregon Revised Statutes 131.561(3)).

Oregon Revised Statutes 131.558 identifies those items which are subject to criminal forfeiture, including currency, real and/or personal property which represents proceeds or was used to facilitate certain specific criminal activity.

606.2.1 ITEMS SUBJECT TO CRIMINAL FORFEITURE

The following are subject to criminal forfeiture:

- (a) All controlled substances that have been manufactured, distributed, dispensed, possessed or acquired in the course of prohibited conduct
- (b) All raw materials, products and equipment of any kind that are used, or intended for use, in providing, manufacturing, compounding, processing, delivering, importing or exporting any service or substance in the course of prohibited conduct
- (c) All property that is used, or intended for use, as a container for property described in subsection (a) or (b) of this section
- (d) All conveyances, including aircraft, vehicles and vessels, that are used, or are intended for use, to transport or facilitate the transportation, sale, receipt, possession or concealment of property described in subsection (a) or (b) of this section, and all conveyances, including aircraft, vehicles and vessels, that are used or intended for use in prohibited conduct or to facilitate prohibited conduct, except that:
 1. No conveyance used by any person as a common carrier is subject to criminal forfeiture under the provisions of this section unless the owner or other person in

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charge of such conveyance was a consenting party or knew of and acquiesced in the prohibited conduct; and

2. No conveyance is subject to criminal forfeiture under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any state
- (e) All books, records, computers and research, including formulae, microfilm, tapes and data that are used or intended for use to facilitate prohibited conduct
 - (f) All moneys, negotiable instruments, balances in deposit or other accounts, securities or other things of value furnished or intended to be furnished by any person in the course of prohibited conduct, all proceeds of or from prohibited conduct, and all moneys, negotiable instruments, balances in deposit and other accounts and securities used or intended to be used to facilitate any prohibited conduct
 - (g) All real property, including any right, title and interest in the whole of any lot or tract of land and any appurtenances or improvements, that is used or intended to be used to commit or facilitate the commission of prohibited conduct
 - (h) All weapons possessed, used or available for use to facilitate conduct giving rise to criminal forfeiture.
 - (i) All property described in this section that is intended for use in committing or facilitating an attempt to commit a crime as described in Oregon Revised Statutes 161.405, a solicitation as described in Oregon Revised Statutes 161.435 or a conspiracy as described in Oregon Revised Statutes 161.450
 - (j) All personal property that is caused or intended to be used to commit or facilitate prohibited conduct.

606.2.2 MINIMUM GUIDELINES FOR SEIZURES

The following guidelines identify the minimum amounts or values required to seize vehicles or real property:

- (a) Vehicles, i.e. cars, trucks, motorcycles, boats, or airplanes used as a conveyance, with equity based on a low blue book value of at least \$5,000.
- (b) \$50,000 in equity of real property (house/condominium).
- (c) Personal property valued at \$2000 or more.
- (d) Cash in excess of \$1000.

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606.2.3 PROHIBITED CONDUCT

- (a) For the purposes of proceeds, prohibited conduct is any Felony or Class A Misdemeanor.
- (b) For the purposes of instrumentalities, prohibited conduct is any crime listed in Oregon Revised Statutes 131.602.

606.3 ASSET FORFEITURE PROCEDURE

The following guidelines will be observed:

- (a) With the exception of real property, items that may be eligible for forfeiture under the provisions, will initially be seized as evidence pursuant to a criminal investigation of one of the crimes specified in the law.
- (b) Asset forfeiture cases will normally be handled by the Detective Sergeant and the District Attorney's Office. Other officers initiating a case that may result in asset forfeiture will contact the Asset Forfeiture Detective for assistance. A copy of all reports and all applicable asset forfeiture paperwork must be forwarded to the Asset Forfeiture detective.
- (c) Whenever a seizing agency intends to forfeit any real property it will serve all persons having an interest in the property with a Notice of Seizure; and posting a notice of seizure on the property.
- (d) Intent to Forfeit Disclaimers (English/Spanish) will be completed on all persons disclaiming ownership of currency, vehicles, or property seized.
- (e) All involved persons will be interviewed concerning their possession of the seized assets, financial situation, employment, income, and other resources. The officer will conduct a further criminal interview as necessary. The interviewing officer shall ensure the *Miranda* warnings are given and waivers obtained before interviewing any person who is in custody.
- (f) Attempt to promptly determine all lien holders or all persons who may have a legal interest in the seized currency, vehicle or property for further contact, investigation and notification.
- (g) Promptly upon seizure, the officer who seized the property shall make an inventory of the property seized and shall deliver a receipt embodying the inventory to the person from whose possession the property is taken or to the person in apparent control of the property at the time it is seized. If the property is unoccupied or there is no one there in apparent control, the officer shall leave the receipt suitably affixed to the property. Every receipt shall contain, in addition to the inventory:
 - 1. The identity of the seizing agency.
 - 2. The address and telephone number of the office or place where the person may obtain further information regarding criminal forfeiture. A seizing agency

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shall provide that any property in the physical custody of the seizing agency be serviced or maintained as necessary to preserve the value of the property.

- (h) The seized property may be transferred for criminal forfeiture to any city, county, state or federal agency with criminal forfeiture authority, provided that no such transfer may have the effect of diminishing or reducing any of the rights of any third party.
- (i) The seizing agency may apply to the court for an order that the seized property may be sold, leased, rented, or operated in the manner and on the terms that may be specified in the court's order. Any sale should be conducted in a commercially reasonable manner and adequate notice and an opportunity to be heard should be provided to all persons known to have or claim to have an interest in the property and with the consent of all persons holding security interests in the property prior to any sale.

606.3.1 SEIZED PROPERTY

Property seized subject to forfeiture will be inventoried and booked into Evidence. The property will be checked through LEDS and the local the Automated Property System to determine if the property has been stolen.

The property will be booked as evidence, with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

606.3.2 SEIZED CURRENCY

Currency seized subject to forfeiture will be counted by the seizing officer and a supervisor. The currency will be placed in a money envelope with the denomination of the currency, totals of each denomination and total amount of currency enclosed noted on the money envelope. The officer counting and supervisor verifying money will initial and sign the envelope when sealed. If the currency will not fit into a standard money envelope, place the currency in a larger envelope or bag, sealing and affixing a completed money envelope to the outside of the larger envelope or bag which contains the currency.

Except where currency has apparent or known intrinsic collector value, all cash seized for criminal forfeiture must be immediately deposited in an insured, interest-bearing forfeiture trust account maintained by the seizing agency exclusively for this purpose. Cash may be retained as evidence in a criminal proceeding but must be deposited immediately when the need to retain it as evidence is discharged.

Subject to any court order, any interest earned upon cash deposited into a forfeiture trust account must be disbursed as follows:

- (a) If the criminal forfeiture proceeding is abandoned, or denied by the court, any interest earned, together with the cash initially seized, shall be returned to the person from whom it was seized

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- (b) If a judgment of criminal forfeiture is entered, but parties other than the seizing agency established rights to portions of the amount on deposit plus interest, the seizing agency shall disburse a pro-rate portion of the interest, together with the cash awarded, to the parties in the order of their priority
- (c) The seizing agency shall retain the balance remaining after payment by the seizing agency to parties designated by the judgment

606.3.3 SEIZED VEHICLES

Vehicles seized subject to forfeiture will be towed to a designated secure storage facility. The officer seizing the vehicle shall notify the detective supervisor of the seizure of the vehicle and circumstances of the seizure as soon as practicable.

Seized vehicles should be towed, not driven, to the storage facility.

Personal property located in a seized vehicle shall be removed and booked into Property, as either evidence or for safekeeping.

Vehicles lawfully seized, that contain a hidden compartment as defined in ORS 131A.005, should have the hidden compartment disabled or removed prior to release (ORS 131A.030).

606.4 ASSET FORFEITURE LOG

A computerized inventory of all asset forfeiture cases shall be kept in the Detective Division. The inventory shall include the following:

- Case number
- Date of seizure
- Value
- Type of seizure (federal or state)
- Status of the seizure

Information maintained on the log will be provided to the Chief of Police or authorized staff, as requested.

606.5 MAINTAINING SEIZED PROPERTY

The Property Room supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.

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- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

606.6 FORFEITURE REVIEWER

The Chief of Police will appoint a forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a course approved by the Department on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly ORS 131.550 et seq., ORS 131A.010 et seq., and Or Const, Art XV, § 10 and the forfeiture policies of the forfeiture counsel.
- (b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.
- (d) Reviewing each seizure-related case and deciding whether the seizure is more appropriately made under state or federal seizure laws. The forfeiture reviewer should contact federal authorities when appropriate (see the restrictions in Or Const, Art XV, § 10).
- (e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:
 1. Names and contact information for all relevant persons and law enforcement officers involved.
 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
 3. A space for the signature of the person from whom cash or property is being seized.
 4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.
 5. Other information as necessary to comply with the form requirements of ORS 131.570 and ORS 131A.055.
- (g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins

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(DTBs) or Departmental Directive. The training should cover this policy and address any relevant statutory changes and court decisions.

- (h) Reviewing each asset forfeiture case to ensure that:
 - 1. Written documentation of the seizure and the items seized is in the case file.
 - 2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
 - 3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property. Information on the notice to interested parties can be found in ORS 131.561, ORS 131.570, ORS 131A.150 and ORS 131A.230. Information on the notice of intent to forfeit real property with the county can be found in ORS 131.567.
 - 4. Property is promptly released to those entitled to its return.
 - 5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
 - 6. Any cash received is deposited with the fiscal agent.
 - 7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
 - 8. Current minimum forfeiture thresholds are communicated appropriately to officers.
 - 9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
- (i) Ensuring that a written plan is available that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.
- (j) Ensuring that the Department disposes of property as provided by law following any forfeiture.
- (k) Ensuring the forms and receipts provided for field use comply with ORS 131.570 and ORS 131A.055. A consensual search of a motor vehicle form should be available for field use as well (ORS 131A.025).
- (l) Disabling hidden compartments in vehicles when appropriate (ORS 131.566; ORS 131A.030).
- (m) Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures,
- (n) Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives.

Informants

608.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

608.1.1 DEFINITIONS

Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with the Milwaukie Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Milwaukie Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

608.2 POLICY

The Milwaukie Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

608.3 USE OF INFORMANTS

608.3.1 INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

608.3.2 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

608.3.3 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

In all cases, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

- (a) The juvenile's parents or legal guardians
- (b) The juvenile's attorney, if any

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- (c) The court in which the juvenile's case is being handled, if applicable
- (d) The Chief of Police or the authorized designee

608.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Captain, Detective Division supervisor or their authorized designees.
 - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as police officers, employees or agents of the Milwaukie Police Department, and that they shall not represent themselves as such.
- (d) The relationship between department members and informants shall always be ethical and professional.
 - 1. Members shall not become intimately involved with an informant.
 - 2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Detective Division supervisor.
 - 3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Detective Division supervisor.
 - 1. Officers may meet informants alone in an occupied public place, such as a restaurant.
- (f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.
- (g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
- (h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

608.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant

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provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- (a) The informant has provided untruthful or unreliable information in the past.
- (b) The informant behaves in a way that may endanger the safety of an officer.
- (c) The informant reveals to suspects the identity of an officer or the existence of an investigation.
- (d) The informant appears to be using his/her affiliation with this department to further criminal objectives.
- (e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- (f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

608.5 INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of department members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Detective Division. The Detective Division supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Captain, Detective Division supervisor or their authorized designees.

The Criminal Investigations Captain should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Detective Division supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

608.5.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

- (a) Name and aliases

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- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
- (d) Photograph
- (e) Current home address and telephone numbers
- (f) Current employers, positions, addresses and telephone numbers
- (g) Vehicles owned and registration information
- (h) Places frequented
- (i) Briefs of information provided by the informant and his/her subsequent reliability
 1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (j) Name of the officer initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

608.6 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The Detective Division supervisor will discuss the above factors with the Operations Captain and recommend the type and level of payment subject to approval by the Chief of Police.

608.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

- (a) Payments of \$500 and under may be paid in cash from a Detective Division buy/expense fund.
 1. The Detective Division supervisor shall sign the voucher for cash payouts from the buy/expense fund.
- (b) Payments exceeding \$500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.

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1. The check shall list the case numbers related to and supporting the payment.
 2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
 3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
 4. Authorization signatures from the Chief of Police and the City Manager are required for disbursement of the funds.
- (c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.
1. The cash transfer form shall include the following:
 - (a) Date
 - (b) Payment amount
 - (c) Milwaukie Police Department case number
 - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
 2. The cash transfer form shall be signed by the informant.
 3. The cash transfer form will be kept in the informant's file.

608.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant's file.

608.6.3 AUDIT OF PAYMENTS

The Detective Division supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief of Police or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

Eyewitness Identification

610.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques.

610.1.1 DEFINITIONS

Definitions related to the policy include:

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

610.2 POLICY

The Milwaukie Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

610.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

610.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Detective Division supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

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- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all of the individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the suspect's photograph may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.

The process and related forms should be reviewed at least annually and modified when necessary.

610.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified, or failed to identify, the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

610.6 DOCUMENTATION

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

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610.7 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness. Techniques to achieve this include randomly numbering photographs, shuffling folders or using a computer program to order the persons in the lineup

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The member presenting the lineup to a witness should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

610.8 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination or show-up identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
 - 1. The length of time the witness observed the suspect.
 - 2. The distance between the witness and the suspect.
 - 3. Whether the witness could view the suspect's face.
 - 4. The quality of the lighting when the suspect was observed by the witness.
 - 5. Whether there were distracting noises or activity during the observation.
 - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
 - 7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

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- (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
- (g) A person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
- (h) If a witness positively identifies a subject of a show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

Warrant Service

614.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

614.2 POLICY

It is the policy of the Milwaukee Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

614.3 OPERATIONS DIRECTOR

The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

614.4 SEARCH WARRANTS

Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

614.5 ARREST WARRANTS

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

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614.6 WARRANT PREPARATION

An officer who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.
- (b) A clear explanation of the affiant's training, experience and relevant education.
- (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
- (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
- (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
- (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
- (g) A sufficient description of the items to be seized.
- (h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the *Brady* Material Disclosure Policy).

614.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- (b) The warrant service is video-recorded when practicable and reasonable to do so. The warrant service may be audio-recorded with notice to all parties to a conversation that a recording is being made unless otherwise permitted in the warrant or ORS 133.726 (ORS 165.540).
- (c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.

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- (d) Reasonable efforts are made during the search to maintain or restore the condition of the location.
- (e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
- (f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
- (g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (h) A copy of the search warrant is left at the location.
- (i) The condition of the property is documented with video recording or photographs after the search.

614.8 DETENTIONS DURING WARRANT SERVICE

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

614.9 ACTIONS AFTER WARRANT SERVICE

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

614.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

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Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Milwaukie Police Department are utilized appropriately. Any concerns regarding the requested use of Milwaukie Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the Patrol Sergeant should assume this role.

If officers intend to serve a warrant outside Milwaukie Police Department jurisdiction, the operations director should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Officers will remain subject to the policies of the Milwaukie Police Department when assisting outside agencies or serving a warrant outside Milwaukie Police Department jurisdiction.

614.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

614.12 TRAINING

The Administrative Captain should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

Operations Planning and Deconfliction

615.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

615.1.1 DEFINITIONS

Definitions related to this policy include:

High-risk operations - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

615.2 POLICY

It is the policy of the Milwaukie Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

615.3 OPERATIONS DIRECTOR

The Chief of Police will designate a member of this department to be the operations director.

The operations director will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

615.4 RISK ASSESSMENT

615.4.1 RISK ASSESSMENT FORM PREPARATION

Officers assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

The officer should gather available information that includes, but is not limited to:

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- (a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.
- (b) Maps of the location.
- (c) Diagrams of any property and the interior of any buildings that are involved.
- (d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).
- (e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).
- (f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).
- (g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).
- (h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

615.4.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

615.4.3 HIGH-RISK OPERATIONS

If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

- (a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:
 1. Special Weapons and Tactics Team (SWAT)
 2. Additional personnel
 3. Outside agency assistance
 4. Special equipment
 5. Medical personnel
 6. Persons trained in negotiation
 7. Additional surveillance

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8. Canines
 9. Property Room or analytical personnel to assist with cataloguing seizures
 10. Forensic specialists
 11. Specialized mapping for larger or complex locations
- (b) Contact the appropriate department members or other agencies as warranted to begin preparation.
 - (c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
 - (d) Coordinate the actual operation.

615.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The officer who is the operations lead shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

615.6 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

- (a) Operation goals, objectives and strategies.
- (b) Operation location and people:
 1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
 2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces,

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- availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids
3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)
 4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties and children
- (c) Information from the risk assessment form by attaching a completed copy in the operational plan.
1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.
- (d) Participants and their roles.
1. An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.
 2. How all participants will be identified as law enforcement.
- (e) Whether deconfliction submissions are current and all involved individuals, groups and locations have been deconflicted to the extent reasonably practicable.
- (f) Identification of all communications channels and call-signs.
- (g) Use of force issues.
- (h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).
- (i) Plans for detaining people who are not under arrest.
- (j) Contingencies for handling children, dependent adults, animals and other people who might be at the location in accordance with the Child Abuse, Adult Abuse, Child and Dependent Adult Safety and Animal Control policies.
- (k) Communications plan
- (l) Responsibilities for writing, collecting, reviewing and approving reports.

615.6.1 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

615.7 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

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- (a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.
- (b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.
- (c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.
 - 1. Exceptions may be made by the operations director for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.
- (d) The briefing should include details of the communications plan.
 - 1. It is the responsibility of the operations director to ensure that LOCOM is notified of the time and location of the operation, and to provide a copy of the operation plan prior to officers arriving at the location.
 - 2. If the radio channel needs to be monitored by LOCOM, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.
 - 3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

615.8 SWAT PARTICIPATION

If the operations director determines that SWAT participation is appropriate, the director and the SWAT supervisor shall work together to develop a written plan. The SWAT supervisor shall assume operational control until all persons at the scene are appropriately detained and it is safe to begin a search. When this occurs, the SWAT supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

615.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

615.10 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any SWAT debriefing.

615.11 TRAINING

The Administrative Captain should ensure officers and SWAT team members who participate in operations subject to this policy should receive periodic training including, but not limited to,

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topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

Sexual Assault Investigations

616.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Adult Abuse policies.

616.1.1 DEFINITIONS

Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include, but not limited to, offenses defined in ORS 163.305 et seq.

Sexual Assault Response Team (SART) - A multidisciplinary team generally composed of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

616.2 POLICY

It is the policy of the Milwaukie Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

616.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with the SART or other multidisciplinary investigative teams as applicable (ORS 147.401).

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Sexual Assault Investigations

616.4 REPORTING

In all reported or suspected cases of sexual assault, a report should be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

616.5 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to LOCOM, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of the SART should be included in the initial victim interviews.

An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded should be included in a report.

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

616.5.1 POLYGRAPH EXAMINATION OF VICTIMS

Victims and any complaining witness in a case involving the use of force, violence, duress, menace or threat of physical injury in the commission of any sex crime under ORS 163.305 through ORS 163.575, shall not be required to submit to a polygraph examination as a prerequisite to filing criminal charges (34 USC § 10451; ORS 163.705).

616.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim. When a victim agrees to participate in a medical assessment, the officer shall contact a victim advocate and make reasonable efforts to ensure that the advocate is present and available at the medical facility if such notification has not already been made by medical personnel (ORS 147.404).

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Unless the victim has chosen to remain anonymous, sexual assault kits or biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, shall be submitted for biological testing (ORS 181A.325).

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Victims who choose not to assist with an investigation, do not desire that the matter be investigated or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately.

616.6.1 COLLECTION AND TESTING REQUIREMENTS

A sexual assault forensic evidence kit shall be obtained from a medical facility within seven days after the medical facility notifies the Department that the kit has been collected. The sexual assault forensic evidence kit shall be submitted to the Oregon State Police (OSP) for testing within 14 days after the Department receives the kit from the medical facility and accompanied with information sufficient to allow OSP to prioritize testing. Sexual assault kits shall not be submitted in cases where the victim has chosen to remain anonymous (ORS 181A.325).

If a victim chooses to file a sexual assault report at a later time, the sexual assault kit associated with the report shall be reclassified as a non-anonymous kit and submitted for testing to the OSP within 14 days of the reclassification (ORS 181A.325).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

616.6.2 DNA TEST RESULTS

Members investigating sexual assault cases should notify victims of any DNA test results as soon as reasonably practicable. Investigating members should work with the crime victim liaison as provided in the Victim and Witness Assistance Policy.

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

Members investigating sexual assaults cases should ensure that DNA results are entered into databases when appropriate and as soon as practicable.

616.7 DISPOSITION OF CASES

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Detective Division supervisor.

Classification of a sexual assault case as unfounded requires the Detective Division supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

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616.8 CASE REVIEW

The Detective Division supervisor should ensure cases are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

616.9 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Detective Division supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

616.10 TRAINING

Subject to available resources, periodic training should be provided to:

- (a) Members who are first responders. Training should include:
 1. Initial response to sexual assaults.
 2. Legal issues.
 3. Victim advocacy.
 4. Victim's response to trauma.
- (b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:
 1. Interviewing sexual assault victims.
 2. SART.
 3. Medical and legal aspects of sexual assault investigations.
 4. Serial crimes investigations.
 5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
 6. Techniques for communicating with victims to minimize trauma.

Unmanned Aerial System (UAS) Operations

617.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of small unmanned aerial systems (SUAS/drones) and for the storage, retrieval and dissemination of images and data captured by the UAS, including but not limited to video and audio recordings. This policy also is the outline for the Milwaukie Police Department's Air Unit Drone Program.

617.1.1 DEFINITIONS

Definitions related to this policy include:

Small Unmanned Aerial System (SUAS) / Drone – An unmanned aircraft of any type (weighing less than 55 pounds) that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording, or any other means. For the purposes of this policy, a UAS includes a drone, as defined by ORS 837.300.

Remote Pilot in Command (PIC) – A PIC is a Milwaukie Police officer who has obtained and maintains a valid remote pilot airman certificate in compliance with all Federal Aviation Regulations. The PIC is responsible for the complete and overall operation of any UAS flight they command.

Visual Observer (VO) – A Milwaukie Police officer or member of another law enforcement agency who conducts flight operations to support police drone missions. The VO will be trained by police employees (PIC) who have obtained and maintain valid remote pilot airman certificates in compliance with all federal aviation regulations.

617.2 POLICY

Drones, also referred to as Unmanned Aerial Systems (UAS) may be utilized to enhance the department's mission of protecting lives and property when other means and resources are either not available, less safe, or less effective. Any application of the drone will be in accordance with Federal, State, and City laws, to include constitutional privacy rights, search and seizure regulations and Federal Aviation Administration (FAA) regulations, described further as the Code of Federal Regulations (CFR), Title 4, Chapter 1, Subchapter F, Part 107, regulations for small, unmanned aircraft systems.

617.3 PRIVACY

The use of the drone potentially involves privacy considerations. Absent a warrant, consent, or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for

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example, deactivating or turning imaging devices away from such areas or persons during drone operations.

617.4 AIR UNIT DRONE SERGEANT

The Chief of Police will appoint an Air Unit Drone Sergeant who will be responsible for the management of the UAS program. The Air Unit Drone Sergeant will ensure that policies and procedures conform to current laws, regulations and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) are current and following the current FAA small UAS Rule (14 CFR part 107).
- Ensuring that all authorized operators and required observers have completed all required FAA and department-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
 - Developing uniform protocols for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents.
 - Reviewing all documentation from all Drone / UAS deployments to ensure compliance with all applicable policy and law and submitting a After Action Review to command staff.
 - Developing protocols for the use of UAS in criminal investigations.
 - Developing protocols for the use of UAS by the patrol division in routine operations.
 - Developing inspection and maintenance schedules and record keeping protocols for all UAS aircraft to ensure safe and efficient management of the program.
 - Developing protocols to ensure all data obtained is maintained, stored, and retrieved in a manner which ensures its integrity potential evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates and date and time stamping, shall be used as appropriate to preserved individual rights and ensure the authenticity and maintenance of a secure evidentiary chain of custody.
 - Developing protocols for retention and purging of data in accordance with established records retention schedules.
 - Submit an annual report in January, summarizing UAS deployments for the past calendar year.
- Fully documenting all missions.
- Publishing the department policies and procedures regarding the use, storage (including third party storage), accessing, sharing and retention of data collected by the drone, including the text of ORS 192.501 on the department website or other publicly accessible system (2016 Oregon Laws, C.72, § 7).

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617.5 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Drones shall be flown in accordance with the following Oregon Revised Statutes;

1. ORS 837.300 – Definitions
2. ORS 837.310 – Restrictions
3. ORS 837.320 – Authorized Use Upon Issuance of Warrant
4. ORS 837.330 – Written Consent
5. ORS 837.335 – Search and Rescue
6. ORS 837.340 – Criminal Investigations
7. ORS 837.345 – Training
8. ORS 837.360 – Restrictions
9. ORS 837.365 – Weaponized Unmanned Aircraft Systems (Prohibited)

Use of vision enhancement technology (e.g., thermal, and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant, consent, exigent circumstances, or court order. In all other instances, legal counsel should be consulted.

The drone should not be flown over populated areas without FAA approval.

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted during daylight hours and a UAS should not be flown over populated areas without FAA approval.

The UAS shall only be operated by the Department (ORS 837.320; ORS 837.330; ORS 837.335):

- (a) Pursuant to a valid warrant authorizing its use.
- (b) When there is probable cause to believe that a person has committed a crime, is committing a crime or about to commit a crime, and exigent circumstances exist that make it unreasonable to obtain a warrant authorizing the use.
- (c) With written consent of an individual for the purpose of acquiring information about the individual or the individual's property.
- (d) As part of search and rescue activities, as defined in ORS 404.200.

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- (e) When assisting an individual in an emergency if there is a reasonable belief that there is an imminent threat to the life and safety of the individual.
 - 1. A report shall be prepared documenting the factual basis for the belief.
 - 2. Within 48 hours of the emergency, a sworn statement shall be filed with the circuit court describing the nature of the emergency and the need for the use of the UAS.
- (f) During a state of emergency declared by the Governor, if:
 - 1. The UAS is used for preserving public safety, protecting property or conducting surveillance that will be used to assess and evaluate environmental or weather-related damage, erosion or contamination.
 - 2. The UAS is operated only in the geographical area specified in the Governor's proclamation.
- (g) For the purpose of reconstructing a crime scene or accident scene, or a similar physical assessment, that is related to a specific investigation, as provided by ORS 837.340 Under this statute, the operations may not exceed 5 days
- (h) For the purpose of training in the use and acquisition of information, as provided in ORS 837.345.
- (i) For the purpose of Community Engagement, by demonstration of our technology capabilities. In an effort to encourage public trust and effectively engage our community, the use of a drone as part of a community meeting or special event is authorized. The UAS demonstration should be limited to showcasing the department's investigative capabilities and educating the public on the UAS program. Use of an UAS in this capacity must be authorized by the Air Unit Drone Sergeant and command staff.
- (j) A drone may be deployed in an effort to protect officers from unnecessary exposure to danger and minimize the risk of injury to bystanders, officers and suspects, and enhance the likelihood of bringing peaceful resolutions to potentially deadly incidents. Use of the drone for these safety purposes should be limited to incidents involving violent felony suspects or involving persons who are emotionally or mentally debilitated and pose a risk of serious bodily injury or death to themselves or others. Examples of these types of incidents include, but are not limited to, armed barricaded suspects, armed suicidal suspects, high risk search warrants, high risk violent offender apprehension, hostage situations and bomb threat/improvised explosive device investigations. These types of incidents will likely require remote manual operation of the drone. Use of a drone in this capacity must be authorized by the Air Unit Drone Sergeant or higher.
- (k) Mutual Aid – Deployment of the Drone as part of mutual aid within or outside our city limits to support other law enforcement agencies is authorized as long as its use meets the standards for "Authorized Uses of UAS" listed above. Deployments inside buildings will be subject to the restrictions currently in place for deploying robots, pole cameras and other observation devices to include search warrant requirement. Use of a drone in this capacity must be authorized by the Air Unit Drone Sergeant or higher.

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- (l) Request for deployment: Officers may request drone assistance through any on-duty Sergeant who will confer with the Air Unit Drone Sergeant. If the Air Unit Drone Sergeant is unavailable, the on-duty Sergeant will confer with the Patrol Captain. Request for non-immediate use will be made through the Air Unit Drone Sergeant.

617.5.1 SAFETY

- (a) The Milwaukie Police Department shall adopt and utilize the finalized COE Unmanned Aerial Systems Operations Manual.

617.6 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized (ORS 837.365).

The UAS shall not be used in any way that causes interference with an aircraft that is in the air, taking off, or landing (ORS 837.374).

617.7 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule (ORS 837.362).

617.8 REPORTING

The Records Air Drone Unit Sergeant shall ensure that an annual report is provided to the Oregon Department of Aviation that summarizes the frequency of UAS use and the purpose for the use, and indicates how the public can access the department's policies and procedures regarding the use of data resulting from the use of UAS as required by ORS 837.360.

Chapter 7 - Equipment

Department Owned and Personal Property

700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made on the proper form. This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Division Commander, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police who will then forward the claim to the Finance Department.

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The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

700.3.1 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

- (a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Division Commander.

Vehicle Maintenance

704.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

704.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

704.2.1 SECURING FIREARMS FROM VEHICLES SCHEDULED FOR MAINTENANCE

When releasing a police car to our shops or an outside vendor for maintenance, repair or other services, the duty sergeant will be responsible for ensuring that all firearms have been secured from the vehicle. The duty Sergeant will also ensure that personnel on his/her shift comply with this requirement whether the vehicle is being picked up at the Public Safety Building or dropped off at the City Shops.

704.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

704.3.1 PATROL VEHICLES

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- 20 Emergency road flares
- 2 Sticks yellow crayon or chalk
- 1 Roll Crime Scene Barricade Tape
- 1 First aid kit, CPR mask
- 1 Blanket
- 1 Fire extinguisher
- 1 Blood-borne pathogen kit, Incl. protective gloves
- 1 Sharps container
- 3 Hazardous waste disposal bags
- 1 Traffic Safety Vest
- 1 Hazardous Materials Emergency Response Handbook

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Vehicle Maintenance

- 1 Evidence collection supplies
- 1 Tactical Individual First Aid Kit

704.3.2 UNMARKED VEHICLES

An employee driving unmarked department vehicles shall ensure that the minimum following equipment is present in the vehicle:

- 5 Emergency road flares
- 1 Roll Crime Scene Barricade Tape
- 1 First aid kit, CPR mask
- 1 Blanket
- 1 Fire extinguisher
- 1 Blood-borne pathogen kit, Incl. protective glo
- 1 Sharps container
- 1 Hazardous waste disposal bag
- 1 Traffic Safety Vest
- 1 Hazardous Materials Emergency Response Handbook
- 1 Evidence collection supplies

704.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized location. Vehicles should be fueled at the end of each shift.

704.5 WASHING OF VEHICLES

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers in patrol shall obtain clearance from the dispatcher before responding to the car wash. Only one marked unit should be at the car wash at the same time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

704.6 NON-SWORN EMPLOYEE USE

Non-sworn employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Non-sworn employees shall also prominently display the "out of service" placards or lightbar covers at all times. Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

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Marked vehicles released to non-members for service or any other reason shall have all weapons removed and "out of service" placards or lightbar covers in place.

704.7 VEHICLE INSPECTION

Unless delayed by an emergency call, employees shall inspect department vehicles at the beginning of each shift for any damage, and to ensure that all systems, lights and emergency equipment are in good working order. The interiors should be examined to confirm no property or contraband is present. The interior inspection should be repeated at the conclusion of any prisoner transport.

Vehicle Use

706.1 PURPOSE & SCOPE

The Department utilizes City owned motor vehicles in a variety of applications by multiple personnel. In order to maintain a system of accountability and ensure City owned vehicles are used appropriately, regulations relating to the use of City owned vehicles have been established. The term "City owned" as used in this section also refers to any vehicle leased or rented by the City.

706.2 USE OF VEHICLES

706.2.1 SHIFT ASSIGNED VEHICLES

Personnel assigned to routine scheduled field duties shall log onto the indicating their respective vehicle number when going on duty. If the vehicle is not equipped with a working in-car computer, they shall notify for entry of the vehicle number on the shift roster. If the employee exchanges vehicles during the shift, the new vehicle number shall be entered.

The shall ensure a copy of the unit roster indicating personnel assignments and vehicle numbers is completed for each shift and maintained for a minimum period of two years.

Assigned employees shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their assignment to that vehicle. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor.

All vehicles used in patrol operations are equipped with a radio and emergency equipment as defined by Oregon Revised Statutes 816.250 and Oregon Administrative Rules 735-110-0010 through 735-110-0050. Vehicles with defective emergency equipment should be promptly reported to a supervisor and not used for patrol duties.

706.2.2 UNSCHEDULED USE OF VEHICLES

Personnel utilizing a vehicle for any purpose other than scheduled field duties shall first notify the Patrol Sergeant of the reasons for use and a notation will be made on the shift roster indicating the operator's name and vehicle number. This section does not apply to personnel permanently assigned an individual vehicle (e.g., Command Staff, Detectives), or to Property personnel assigned transportation duties to and from other facilities. Property personnel shall be responsible for maintaining records of the property transportation vehicles for a minimum of two years.

706.2.3 UNDERCOVER VEHICLES

Undercover units shall not be used without first obtaining approval from the respective unit supervisor.

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706.2.4 CRIMINAL INVESTIGATIONS DIVISION VEHICLES

Criminal Investigations Division vehicle use is restricted to Detective personnel unless approved by a detective supervisor. After hour use of Criminal Investigations Division vehicles by personnel not assigned to the that division shall be recorded with the Patrol Sergeant on the Shift Roster.

706.2.5 AUTHORIZED PASSENGERS

Personnel operating City owned vehicles shall not permit persons other than City employees, persons required to be conveyed in the performance of duty, or as otherwise authorized to ride as a passenger in their vehicle.

706.2.6 PARKING

City owned vehicles should be parked in their assigned stalls. Employees shall not park privately owned vehicles in any stall assigned to a City owned vehicle or in other areas of the parking lot not designated as a parking space unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

706.2.7 INSPECTIONS

The interior of any vehicle that has been used to transport any person other than an employee should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized items have not been left in the vehicle.

706.3 ASSIGNED VEHICLE AGREEMENT

City owned vehicles assigned to personnel for their use within their job assignment may be used to transport the employee to and from their residence for work-related purposes. The employee shall sign an agreement setting the standard for how the vehicle shall be used and where it shall be parked when the employee is not on duty.

The assignment of vehicles is at the discretion of the Chief of Police. Assigned vehicles may be changed at any time and/or permission to take home a vehicle may be withdrawn at any time.

706.3.1 VEHICLES SUBJECT TO INSPECTION

All City owned vehicles are subject to inspection and or search at any time by a supervisor and no employee assigned to or operating such vehicles shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

706.4 SECURITY

Employees may take home City owned vehicles only with prior approval from their Division Captain and shall meet the following criteria:

- (a) The employee lives within a 25 mile response time of the Milwaukie City limits.
- (b) Off-street parking shall be available at the employee's residence.
- (c) Vehicles shall be locked when not attended.

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- (d) All firearms and kinetic impact weapons shall be removed from the interior of the vehicle and placed in the trunk or properly secured in the residence when the vehicle is not attended.
- (e) When an employee is on vacation, leave, or out of the area in excess of one week, the vehicle shall be stored at the Department or at the employee's residence if a secure garage is available.

706.4.1 KEYS

All uniformed field personnel approved to operate marked police vehicles shall be issued their own personal unit key as part of their initial equipment distribution upon hiring. Personnel assigned a permanent vehicle shall be issued keys for their respective vehicle. The loss of any assigned key shall be promptly reported in writing through the employee's chain of command.

706.5 ENFORCEMENT ACTIONS

Officers shall not become involved in enforcement actions when driving an assigned vehicle to and from work outside of this jurisdiction except in circumstances where a potential threat to life or serious property damage exists.

Officers driving marked vehicles shall be armed at all times.

Officers may render public assistance, e.g. to a stranded motorist, when deemed prudent.

706.6 MAINTENANCE

- (a) Each employee is responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicle.
 - 1. Employees may use the wash racks at the Police/Fire Facility or City Yards (Trusties may be used to clean vehicles, when available).
 - 2. Cleaning/maintenance supplies will be provided by the Department.
- (b) Employees shall make daily inspections of their assigned vehicle for service/maintenance requirements and damage.
- (c) Supervisors shall make, at the minimum, monthly inspections of vehicles assigned to employees under their command to ensure the vehicles are being maintained in accordance with policy.
- (d) Routine maintenance and oil changes shall be done in accordance with the Maintenance Shop schedule. The vehicles will normally be serviced at the Maintenance Shop.

706.6.1 ACCESSORIES AND/OR MODIFICATIONS

No modifications, additions or deletions of any equipment or accessories shall be made to the vehicle without written permission from the Assigned Vehicle Program manager.

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706.7 ACCIDENT DAMAGE, ABUSE, AND MISUSE

When a City-owned or leased vehicle is involved in a traffic collision, the involved employee shall promptly notify a supervisor. A traffic collision report shall be filed with the agency having jurisdiction.

When a collision involves a department vehicle or when a member of this department is an involved driver in a collision that occurs in this jurisdiction, and the collision results in serious injury or death, the Oregon State Police should be summoned to handle the investigation.

The employee involved in the collision shall complete the City's vehicle accident form. If the employee is incapable, the supervisor shall complete the form.

Any damage to a vehicle that was not caused by a traffic collision shall be immediately, reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the shift sergeant.

An administrative investigation will be conducted to determine indications of vehicle abuse and misuse. If it is determined that misuse or abuse was a result of negligent conduct or operation, appropriate disciplinary action may result.

Chapter 8 - Support Services

Crime Analysis

800.1 PURPOSE AND SCOPE

Crime analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Parole and Probation records
- Computer Aided Dispatch data
- Oregon Department of Transportation
- Oregon Traffic Safety Commission

800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for Crime Analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to them. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

Property and Evidence

804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

804.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

Safekeeping - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law

Found Property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

804.3 PROPERTY HANDLING

Any employee who first comes into possession of any property, shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence. When not specifically addressed by this manual, collection and handling of all evidence and property should follow the guidelines established by the State of Oregon Physical Evidence Manual.

Employees will provide a receipt for all items of property or evidence that are received or taken from any person. If no person is present, and the property or evidence is removed from private property or a vehicle, the employee will leave a receipt prominently placed on the private property or the vehicle.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the item(s).

804.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

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- (a) Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) Only list one property classification per property report. Property classifications are Evidence, Safekeeping, Contraband, and Found Property.
- (c) Mark each item of evidence with the booking employee's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.
- (d) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (e) Place the case information (Case, PIC, Item#) on outside of packaging.
- (f) The yellow copy of the property form shall be submitted with the case report. The original report shall be placed with the property in the temporary property locker.
- (g) When the property is too large to be placed in a locker, the item may be retained in the supply room. Submit the completed property record into a numbered locker indicating the location of the property.

804.3.2 EXPLOSIVES/HAZARDOUS SUBSTANCES

Explosives that are known or suspected to be armed or live, other than fixed ammunition, should not be retained in the police facility. All fireworks, railroad flares, or fuses that are considered safe will be transported to the Fire Department on a regular basis by a property officer.

Officers who encounter an explosive device shall immediately notify their immediate supervisor and/or Patrol Sergeant. The Bomb Squad will be called to handle situations involving explosive devices and all such devices will be released to them for disposal. In the event of military ordnance, the closest military unit shall be notified and they will be responsible for removal of the device.

Flammable liquids, corrosive or caustic chemicals or other potentially hazardous materials may not be stored in the property room. In most cases, they should not be taken into custody. Disposal is the responsibility of the owner. If the substance is to be tested for evidentiary purposes, a small sample should be taken using supplied sample bottles to be sealed in overpack containers.

804.3.3 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air dried prior to booking and packages should be labeled with a biohazard sticker. Locations with bio-hazard materials need to be marked with proper hazard labels.
- (b) License plates found not to be stolen or connected with a known crime, should be released directly to the Police Technician, or placed in the designated container for

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destruction located under the court lockers. No formal property booking process is required

- (c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame and placed in the bike cage located in the secured parking area of the Public Safety Building. The property report will be placed in a temporary evidence locker and location of the bike/frame shall be noted on the property report.
- (d) All cash shall be counted in the presence of another officer and the envelope initialed by both officers. The Operations Supervisor shall be contacted for cash in excess of \$1,000 for special handling procedures

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

804.3.4 COLLECTION AND PRESERVATION OF DNA EVIDENCE

Because DNA evidence can play a key role in establishing guilt or innocence, it is important that such evidence be collected, handled, and preserved in a manner that will maintain its integrity for future testing. Unless impracticable to do so, officers should collect samples of all biological evidence that may reasonably be used to incriminate or exculpate any person as part of any criminal death investigation or a sex crime listed in ORS 163A.005. The Police Technician will be responsible to ensure that biological evidence is preserved in an amount and manner that is sufficient to develop a DNA profile.

Collection and preservation should follow established protocols as outlined in the Oregon Physical Evidence Manual.

804.3.5 COLLECTION AND PRESERVATION OF SAFE KITS

Under current law, victims of sexual assault may seek medical assessment and choose not to make a report to law enforcement, yet still have evidence collected and preserved. The Milwaukie Police Department will collect and maintain the chain of evidence for all Oregon State Police Sexual Assault Forensic Evidence Kits (SAFE Kits) and any associated evidence collected by medical facilities in this jurisdiction for victims of sexual assault, regardless of where the assault may have occurred. Victims who choose to remain anonymous and not make a report shall not be required to do so (ORS 147.397).

The collection and preservation of SAFE Kits from anonymous victims shall be handled by an assigned officer to ensure their proper collection and preservation. When a medical facility notifies this department that evidence of a sexual assault has been collected and a SAFE Kit is available, the assigned officer shall be responsible for the following:

- (a) Respond promptly to the medical facility to retrieve the evidence.

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- (b) Provide a unique case number to a responsible representative of the medical facility, which will be provided to the victim. The case number will be used to identify all associated evidence so that a chain of evidence can be maintained in the event the victim later decides to report the assault.
- (c) Ensure that no identifying information regarding the victim, other than the case number, is visible on the evidence packaging.
- (d) Prepare and submit an evidence report and book the evidence in accordance with current evidence procedures.
- (e) Notify the Detective Sergeant that a SAFE Kit had been collected and provide the Detective Sergeant with the assigned case number.

SAFE Kits collected for victims whose identity is not disclosed should be maintained in the same manner as other SAFE Kits, but should not be opened until or unless the victim reports the assault. Opening SAFE Kits may compromise the admissibility of evidence in the event of a prosecution.

All SAFE kits, including anonymous kits, shall be retained for no less than 60 years after the collection of the evidence.

804.3.6 STORAGE OF SURRENDERED WEAPONS

Officers shall accept and store any weapons and ammunition from an individual who has been ordered by a court pursuant to an extreme risk protection order (ORS 166.527) or a protection order or judgment of conviction subject to the provisions of ORS 166.255 to surrender weapons and ammunition. The officer receiving the surrendered items shall prepare a property receipt and provide the individual with a copy. The officer should promptly forward the original receipt to the Records Supervisor for timely filing with the court (ORS 166.537).

804.4 PACKAGING OF PROPERTY

Certain types and classifications of property items require special consideration and shall be booked separately as follows:

- (a) Evidence
- (b) Safekeeping
- (c) Property with more than one known owner
- (d) Found Property
- (e) Fireworks and other hazardous materials
- (f) Contraband

804.4.1 PACKAGING CONTAINER

Employees shall package all property in a suitable container available for its size. Knife boxes should be used to package knives. All packages containing evidence must be sealed with evidence tape, initialed, and dated across the seal.

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Needles or syringes will normally be disposed of in a sharps container and will not be submitted to the Property Room; however, when required for evidence in a serious crime or in a major investigation, a syringe tube should be used for packaging.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

804.4.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in their possession until it is properly packaged, tagged, and placed in a temporary evidence locker, accompanied by the white copy of the property report.

All narcotics and dangerous drugs shall be weighed (approximate gross weight) including the drug and its original container. All narcotics and dangerous drugs shall be packaged separately and documented on a property report prior to submitting into evidence.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size provided by the evidence division. The booking officer shall initial and date the sealed envelope. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property label shall be attached to the outside of the package.

804.4.3 SYRINGES

Syringes will only be accepted if they are your only piece of drug evidence and a criminal case will be filed. Only one syringe per suspect can be submitted, except for major cases. All other exceptions must be approved by the on duty supervisor.

When seizing a syringe as evidence, package in such a manner to protect personnel during handling. *Do not remove the needle or shoot contents into a vial.* Leave the cap in place over the needle and place in a syringe tube provided by the Evidence Division. Place a completed Milwaukie Police sharps label on outside of the tube, tape both ends with evidence tape, then initial and date across the seal.

SYRINGE TUBES ARE FOR EVIDENTIARY USE ONLY.

The reporting officer upon returning to the station shall dispose of all other syringes in a sharps container.

804.5 RECORDING OF PROPERTY

The Police Technician receiving custody of evidence or property shall record his/her initials, the date and the property was received and where the property will be stored on the property report.

A property number shall be obtained for each item or group of items. This number is represented on the barcode.

Any changes in the location of property held by the Milwaukie Police Department shall be inputted in the property/evidence computerized tracking system.

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804.6 PROPERTY ROOM SECURITY

Access to the Property Room is limited to Police Technicians unless visitors are logged in and out, including the time, date and purpose of entry. All personnel entering the Property Room must be accompanied at all times by a Police Technician.

Annual independent audits will be completed of the Property Room function with an audit report to the Chief of Police.

804.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry in the property/evidence computerized tracking system shall be completed to maintain the chain of possession. No evidence is to be released without first receiving written authorization from the assigned investigator or his/her supervisor.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Police Technician. This request may be filled out any time after the booking of property or evidence.

804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property in the property/evidence computerized tracking system, indicating the transfer of items to the State Police Crime Lab or authorized lab along with the request for laboratory analysis.

The Police Technician releasing the evidence must complete the required steps in checking items out in the property/evidence computerized tracking system to go to the lab. The lab forms will be transported with the property to the examining laboratory. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records for filing with the case.

804.6.3 STATUS OF PROPERTY

All evidence/property is logged into agency records as soon as practicable.

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be input into the property/evidence computerized tracking system.

The Police Technician shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The property being returned will be checked back in through the property/evidence computerized tracking system by the Police Technician.

804.6.4 RELEASE OF PROPERTY

Property may be released to a verified owner at the discretion of the Police Technician without further authorization. A Police Technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the Property and Evidence Receipt. After

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release of all property documented on the property report, the report shall be forwarded to the Records for filing with the case. If some items of property have not been released the property report will remain with the property division. Prior to release, the proper entry shall be input in the property/evidence computerized tracking system.

All reasonable attempts by the seizing officer shall be made to identify the rightful owner of found property or evidence not needed for an investigation. Property not claimed within 30 days after notification of owner of its availability for release will be auctioned, destroyed, or disposed of in accordance with these procedures and existing law.

Unless the owner is known, found property and property held for safekeeping will be held for at least 90 days.

804.6.5 RELEASE OF EVIDENCE

Evidence may only be released with the authorization of the DA's office and/or the officer or detective assigned to the case.

Once a case has been adjudicated or passed the statute of limitations for prosecution, a Police Technician will request a disposition authorization from the DA's office and/or the assigned officer or detective. Care should be taken to ensure there are no outstanding warrants for suspects or additional defendants for the same case prior to authorizing release.

Release of evidence shall be made upon receipt of written or e-mailed authorization from the officer/investigator, listing the name and address of the person to whom the property is to be released. Written authorization must conform to the items listed on the property form or must specify the specific item(s) to be released. Once evidence has been authorized for release and is no longer needed for any pending criminal cases, it shall be considered property and released or disposed of in accordance with those procedures.

804.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Milwaukie Police Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Milwaukie Police Department may wish to file an interpleader to resolve the disputed claim (ORCP 31).

804.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Police Technician will be responsible for the storage, control, and destruction of all narcotics and dangerous drugs coming into the custody of this department.

804.6.8 FIREARM RELEASES

When releasing a weapon you must run the owner for felony convictions, domestic abuse convictions or mental holds. Have the owner fill out a request for the return of firearm(s) form. If

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the owner has any felony conviction, domestic violence convictions or a mental health record the weapon may not be legally released to this person. If the individual has a current restraining order and/or is on parole they may not possess a weapon.

A firearm and ammunition will not be released at the same time. The owner will need to schedule a separate appointment on a different business day.

804.6.9 PRESCRIPTION MEDICATION

The Milwaukie Police Department will not release any prescription medications unless they are in a prescription bottle with the name of the patient, issuing physician, and pharmacy on the label. The medication inside the bottle must be the same size, color and have the exact same markings as the other medications. The prescription must be current and not in an expired status. The medication will only be released to the patient that is named on the prescription. Medications that do not conform to the above criteria, were seized from a third party or are found property shall be destroyed.

804.6.10 RELEASE OF DEADLY WEAPONS IN EXTREME RISK PROTECTION ORDER MATTERS

If an extreme risk protection order is terminated or expires without renewal, a deadly weapon or concealed handgun license that was surrendered pursuant to the order shall be returned to the person after (ORS 166.540):

- (a) Confirming through a background check, if the deadly weapon is a firearm, that the person is legally eligible to own or possess the firearm under federal and state law; and
- (b) Confirming that the extreme risk protection order is no longer in effect.

If a third party claims lawful ownership or rightful possession to a deadly weapon that was surrendered pursuant to an extreme risk protection order, the Department may return the weapon to the third party if the third party provides proof of ownership and affirms by sworn affidavit that (ORS 166.537(5)):

- He/she may lawfully possess the deadly weapon.
- He/she did not consent to the prior possession of the deadly weapon by the person subject to the extreme risk protection order.
- He/she will prevent the person subject to the order from accessing or possessing the deadly weapon in the future.

A deadly weapon that remains unclaimed shall be disposed of in accordance with Department policies and procedures for disposal of deadly weapons (ORS 166.540).

804.6.11 RELEASE OF FIREARMS IN DOMESTIC VIOLENCE PROTECTION ORDER MATTERS

If a protection order subject to the provisions of ORS 166.255 is terminated or expires without renewal, any firearms or ammunition surrendered pursuant to the order shall be returned upon the request of the respondent after the following actions are taken (ORS 166.257):

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- (a) Notify the Department of Justice of the request.
- (b) Confirm that the protection order is no longer in effect.
- (c) Confirm through a background check that the respondent is legally eligible to own or possess firearms and ammunition under federal and state law.

Return of the surrendered items will take place no earlier than 72 hours after the request was received (ORS 166.257).

Firearms and ammunition that remain unclaimed shall be disposed of in accordance with department policies and procedures for disposal of deadly weapons (ORS 166.540).

804.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for 90 days or longer (60 days or more, plus 30 days after notice), where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Police Technician shall request a disposition or status on all property that has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective. ORS 98.245 and ORS 98.336 govern the disposition of property held by law enforcement agencies.

804.7.1 DEFINITIONS

As set out in ORS 98.245, the following definition applies to the disposition of property by law enforcement agencies:

Unclaimed Property - Personal property that was seized by the Milwaukie Police Department as evidence, abandoned property, found property or stolen property, and that has remained in the physical possession of the Milwaukie Police Department for a period of more than 60 days following conclusion of all criminal actions related to the seizure of the evidence, abandoned property, found property or stolen property, or conclusion of the investigation if no criminal action is filed.

804.7.2 DISPOSITION

Unclaimed property will be disposed of in accordance with the provisions of Oregon Revised Statutes 98-245. Disposal may consist of:

- (a) Destruction
- (b) Sale at public auction
- (c) Retention for public use
- (d) Donation

804.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property Room supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant

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- (b) The defendant's attorney
- (c) The appropriate prosecutor
- (d) Any sexual assault victim
- (e) The Criminal Investigations Division supervisor

Biological evidence shall be retained for a minimum period established by law (ORS 133.707), the Property Room supervisor or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Criminal Investigations Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Even after expiration of the applicable statute of limitations, the Criminal Investigations Captain should be consulted and the sexual assault victim should be notified.

The Property Room supervisor should incorporate OAR 137-140-0030 et seq. as applicable to the preservation and documentation of biological evidence. Sexual assault kits, including anonymous kits, shall be retained by the Department no less than 60 years after the collection of the evidence (ORS 181A.325).

804.8 INSPECTIONS OF THE EVIDENCE ROOM

- (a) On a quarterly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) An annual inventory of evidence held by the department shall be conducted by appointed personnel by the Chief of Police who is not routinely or directly connected with evidence control.
- (c) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual(s) not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

Records

806.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Milwaukie Police Department Records. The policy addresses department electronic file access and internal requests for case reports.

806.1.1 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the electronic Records Managment System.

Reports are numbered commencing with the last two digits of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year. As an example, case number 09-00001 would be the first new case beginning January 1, 2009.

806.1.2 RECORDS RETENTION

All Department records shall be retained and purged in a manner consistent with applicable provisions of the Oregon Revised Statutes and Oregon Administrative Rules.

806.2 POLICY

It is the policy of the Milwaukie Police Department to maintain department records securely, professionally, and efficiently.

806.3 REQUISITION OF SUPPLIES

All personnel who are in need of supplies shall send an email to the Administrative Assistant, who will verify if the supplies are needed and if so, order such supplies.

806.4 FILE ACCESS AND SECURITY

All Milwaukie police employees have secure individual logins set up by records management administrators. The security of files in the electronic records management system must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence and any other reports related to a police department case, including field interview (FI) cards, criminal history records, and publicly accessible logs, shall be maintained in a secure records management system, and accessible only by authorized members of the police department.

The Records will also maintain a secure electronic file for case reports deemed by the Chief of Police or Detective Sergeant as sensitive or otherwise requiring extraordinary access restrictions.

806.5 CONFIDENTIALITY

Records staff has access to information that may be confidential or sensitive in nature. Records staff shall not access, view, or distribute, or allow anyone else to access, view, or distribute, any record, file, or report, whether in hard copy or electronic file format, or any other confidential,

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protected, or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies and the Records procedure manual.

806.6 REPORTING CRIME STATISTICS

National Incident Based Reporting System (NIBRS) codes shall be assigned to all crime reports in accordance with the Federal Bureau of Investigation's National Incident Based Reporting System. It is the responsibility of Records personnel to validate the information going into the Milwaukie Police Department data system and insure that such information is transmitted on a monthly basis to the Oregon State Police Law Enforcement Data System (LEDS) (ORS 181A.225).

806.7 REPORTING CRIME STATISTICS

National Incident Based Reporting System (NIBRS) shall be assigned to all crime reports in accordance with the Federal Bureau of Investigation's National Incident Based Reporting System. It is the responsibility of the investigating officer to enter such information into the Milwaukie Police Department data system and records personell validates such information to ensure that such information is transmitted on a monthly basis to the Oregon State Police Law Enforcement Data System (LEDS) (Oregon Revised Statutes 181.550).

Restoration of Firearm Serial Numbers

808.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines.

808.2 PROCEDURE

Any firearm coming into the possession of the Milwaukie Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

808.2.1 PRELIMINARY FIREARM EXAMINATION

- (a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tubular magazine) as well as the chamber contents.
- (b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.
- (c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.
- (d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

808.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

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808.2.3 OFFICER RESPONSIBILITY

The Police Technician receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

808.2.4 DOCUMENTATION

Case reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

808.2.5 FIREARM TRACE

After the serial number has been restored or partially restored by the criminalistics laboratory, the Police Technician will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or the data may be entered into the ATF [eTrace](#) system.

808.3 BULLET AND CASING IDENTIFICATION

Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to digitize and compare unique markings made by a firearm on bullets and cartridge casings recovered from crime scenes.

Records Maintenance and Release

810.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

810.2 POLICY

The Milwaukie Police Department is committed to providing public access to records in a manner that is consistent with the Oregon Public Records Law.

810.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to (ORS 192.318; OAR 166-020-0010 et seq.):

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records (OAR 166-017-0005 et seq.; OAR 166-030-0005 et seq.).
- (b) Maintaining and updating the department records retention schedule, including:
 1. Identifying the minimum length of time the Department must keep records.
 2. Identifying the department division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records.
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring the availability of a current schedule of fees for public records as allowed by law (ORS 192.324(4); ORS 192.324(5)).
- (g) Preparing and making available to the public a written procedure that includes the name of one or more individuals and address of where to send record requests to obtain department records as well as the amounts and the manner of calculating fees for responding to requests for public records (ORS 192.324(7)).

810.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

810.4.1 DENIALS

If the Custodian of Records determines that a requested record is not subject to disclosure or release, the Custodian of Records shall inform the requester in writing of that fact and state the reason for the denial. When the denial is pursuant to federal or state law, the specific law shall be provided to the requester (ORS 192.329).

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When asserting that a record is exempt, the written statement of denial shall include a statement that the requester may seek review of the determination pursuant to Oregon Law as identified by ORS 192.329.

If the denial is challenged by the requester by petition to the District Attorney, the Department will have the burden to support the denial (ORS 192.415).

810.4.2 JUVENILE RECORDS

Juvenile records are treated differently from records of adults.

Except as defined in this section, reports involving juveniles are generally confidential and may not be released. Any requests for reports or records involving juveniles not specifically authorized by this policy should be referred to the County Juvenile Department (ORS 419A.255(2); ORS 419A.255(8)).

- (a) If a youth is taken into custody under circumstances where he/she could be arrested without a warrant if an adult, or pursuant to an order of the Juvenile Court, the following information shall be disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim (ORS 419A.255(6)):
 - 1. The youth's name and date of birth and whether the youth is employed or in school.
 - 2. The youth offense for which the youth was taken into custody.
 - 3. The name and age of the adult complaining party and the adult victim, unless the disclosure of such information is otherwise prohibited or restricted.
 - 4. The identity of the investigating and arresting agency.
 - 5. The time and place that the youth was taken into custody and whether there was resistance, pursuit or a weapon used in taking the youth into custody.
- (b) Any additional information is kept confidential unless requested by one of the following (ORS 419A.255; ORS 419A.257):
 - 1. Other public agencies for use in investigating or prosecuting cases in which the juvenile in question is somehow involved.
 - 2. Department of Human Services, Child Welfare Division, Oregon Youth Authority or the local Juvenile Department.
- (c) Child abuse cases may only be made available to a law enforcement agency, local or state prosecutors, a child welfare agency or other entities as designated by law (ORS 419B.035).
- (d) Court appointed special advocates (i.e., CASA volunteer or employee) will be permitted to inspect and copy any records held by this department relating to the child or ward involved in a case and members of this department may consult with the court appointed special advocate regarding the case. Consent of the child, ward or parents to the sharing of such information is not required (2012 Oregon Laws c107, §105).

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810.5 RELEASE RESTRICTIONS

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record, including traffic collision reports, is restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Personal identifying information of members including Social Security number, date of birth, telephone number, home address, email address, driver license number, employer-issued identification card number, emergency contact information, medical information, or information of a personal nature that would constitute an unreasonable invasion of privacy (ORS 192.345; ORS 192.355).
 - 1. A showing of clear and convincing evidence that public interest requires disclosure may overcome the restriction.
- (c) Member identification badge or card as provided in ORS 192.371.
- (d) Information regarding a member working undercover and for the period of six months after the conclusion of those duties unless the member consents in writing or disclosure is required by law (ORS 181.672).
- (e) A photograph of public safety personnel without the written consent of that member (ORS 181A.674).
- (f) Personnel discipline action, including materials or documents supporting the action, unless allowed by law (ORS 181A.674; ORS 192.345(12)).
- (g) Certain victim information, including participants in the Address Confidentiality Program (ORS 192.368; ORS 192.844).
- (h) Certain juvenile records (ORS 419A.257).
- (i) Certain ongoing investigation material for criminal law purposes (ORS 192.345(3)).
- (j) Audio or video records of internal investigation interviews (ORS 192.385).
- (k) Certain types of reports involving but not limited to child abuse (ORS 419B.035) and adult abuse (ORS 124.090; ORS 430.763; ORS 441.671).
- (l) Records relating to pending litigation and to potential litigation that is reasonably likely to occur in which the Department is or will be named as a party (ORS 192.345(1)).
- (m) Certain identifying information of an individual that has applied for, or is a current or former holder of, a concealed handgun license as provided in ORS 192.374.
- (n) Specific operation plans in connection with an anticipated threat to individual or public safety (ORS 192.345(18)).
- (o) Any public records or information the disclosure of which is prohibited by federal law (ORS 192.355).

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- (p) Any public records or information the disclosure of which is prohibited or restricted, or made confidential or privileged under Oregon law (ORS 192.355).
- (q) Records less than 75 years old that were sealed in compliance with statute or by court order. Such records may only be disclosed in response to a court order (ORS 192.398).
- (r) Records of a person who has been in the custody of the Department are exempt from disclosure for 25 years after termination of such custody. Disclosure of the fact that a person is in custody is allowed (ORS 192.398).
- (s) Audio or video recordings from an officer's body-worn camera. Such recordings may only be disclosed under the conditions provided by ORS 192.345(40), including facial blurring.
- (t) Personal information of complainants and of officers who are the subject of bias-based policing complaints. "Personal information" means an individual's name, address, date of birth, photograph, fingerprint, biometric data, driver license number, identification card number, or any other unique personal identifier or number (ORS 131.925; ORS 807.750).
- (u) The identity of an individual or an officer from traffic or pedestrian stop data collected by the Department (ORS 131.935).
- (v) Information regarding the immigration status of any victim who is requesting certification for a U or T visa, or any documents submitted for U or T visa certification and any written responses to a certification request except where allowed by law (ORS 147.620).
- (w) Images of a deceased person or parts of a deceased body that are part of a department investigation if public disclosure would constitute an unreasonable invasion of privacy of the deceased person's family (ORS 192.355).
 - 1. A showing of clear and convincing evidence that public interest requires disclosure may overcome the restriction.

810.5.1 MEDICAL RECORDS, SEALED RECORDS, IN CUSTODY RECORDS AND STUDENT RECORDS

The following records are exempt from disclosure under ORS 192.496:

- (a) Records that contain information about the physical or mental health, or treatment thereof, of a living individual; if the public disclosure thereof would constitute an unreasonable invasion of privacy. The party seeking disclosure shall have the burden of showing by clear and convincing evidence that the public interest requires disclosure in the particular instance and that public disclosure would not constitute an unreasonable invasion of privacy.
- (b) Records less than 75 years old that were sealed in compliance with statute or by court order. Such records may only be disclosed in response to a court order.
- (c) Records of a person who is or has been in the custody or under the lawful supervision of a state agency, a court or a unit of local government, are exempt from disclosure for a period of 25 years after termination of such custody or supervision to the extent

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that disclosure thereof would interfere with the rehabilitation of the person if the public interest in confidentiality clearly outweighs the public interest in disclosure. Nothing in this subsection, however, shall be construed as prohibiting disclosure of the fact that a person is in custody.

810.5.2 CONDITIONALLY EXEMPT PUBLIC RECORDS

The following public records will not be released unless the public interest requires disclosure (Oregon Revised Statutes 192.501):

- (a) Records pertaining to any litigation to which the Department is, or is likely to be a party except where litigation which has been concluded.
- (b) Any record pertaining to department operations or the use and deployment of personnel and equipment, if disclosure would endanger public safety or jeopardize a law enforcement activity.
- (c) Records or information that would disclose or jeopardize security measures taken by the Department to protect department members, property or operations.

810.5.3 OTHER PUBLIC RECORDS EXEMPT FROM DISCLOSURE

The following public records are generally exempt from disclosure and absent a court order or other legal process shall not be released except with the expressed authorization of the Chief of Police or his/her designee (ORS 192.502 et seq.):

- (a) Specific records containing the home address, personal telephone number, or e-mail address of any individual who has previously submitted a written request of non-disclosure in accordance with rules established by the Attorney General.
- (b) Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy.
- (c) Personal information of any member of or volunteer of this department including addresses, Social Security numbers, dates of birth and telephone numbers.
- (d) Any public record or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon or Federal law.

810.5.4 PERSONNEL RECORDS

Certain information contained in personnel records is confidential and is also exempt from public disclosure. The following information shall not be released unless the public interest requires disclosure in the particular instance as determined by a court or other legal process (ORS 181.854, ORS 192.501(12) and ORS 192.502(2)):

- (a) Medical related information contained in medical records and similarly uniquely personal information which if released would constitute an unreasonable invasion of privacy.

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- (b) Records, materials, or documents supporting a personnel investigation that is pending or ongoing or has resulted in discipline of the involved employee.
- (c) Photographs that identify an employee unless the employee consents in writing.

Any release of such information must be reviewed by department legal counsel and approved by the Chief of Police. Although exempt from public disclosure, such records and information may be subject to discovery in civil or criminal proceedings. In such a situation, the Milwaukie Police Department will oppose disclosure unless the court specifically orders the release.

810.5.5 CONCEALED HANDGUN LICENSE

Information contained in Concealed Handgun License applications or other files that would tend to reveal where the applicant is vulnerable or which contains medical or psychological information shall not be made public (ORS 192.502(2) & (4)).

810.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

810.6.1 PERSONAL IDENTIFYING INFORMATION

Employees shall not access, use or disclose personal identifying information, including an individual's photograph, Social Security number, driver identification number, name, address, telephone number and the individual's medical or disability information, which is contained in any driver license record, motor vehicle record or any department record except as authorized by the Department and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (ORS 802.181 and 18 USC § 2721).

810.7 SUBPOENA DUCES TECUM

Any Subpoena Duces Tecum (SDT) should be promptly provided to a supervisor for review and processing. While a Subpoena Duces Tecum may ultimately be subject to compliance, it is not an order from the Court that will automatically require the release of the requested information.

All questions regarding compliance with any Subpoena Duces Tecum should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

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810.8 EXPUNGEMENT

Expungement orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once a record is sealed, members shall respond to any inquiry as though the record did not exist (ORS 137.225).

Protected Information

812.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Milwaukie Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

812.2 POLICY

Members of the Milwaukie Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

812.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records, and Law Enforcement Data System (LEDS).
- (b) Developing, disseminating, and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating, and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release, and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

812.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Milwaukie Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

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Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

812.4.1 ACCESS BY CRIMINAL JUSTICE AGENCIES

Access to OSP criminal offender information may be granted to Criminal Justice Agencies, where the information is to be used for the administration of criminal justice, Criminal Justice Agency employment, or the information is required to implement a federal or state statute, local ordinance, Executive Order, or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct, or other demonstrated and legitimate needs.

812.4.2 CRIMINAL RECORD SECURITY OFFICER

The Records Supervisor is the designated Criminal Record Security Officer for the Milwaukie Police Department. This supervisor is responsible for ensuring compliance with this procedure and with applicable records security regulations and requirements imposed by federal and state law. The Criminal Record Security Officer will resolve specific questions that arise regarding authorized recipients of criminal history.

812.4.3 RELEASE OF CRIMINAL OFFENDER INFORMATION

Criminal offender information shall only be released in the following circumstances, as set out by OAR 257-010-0025:

- (a) **Release to Criminal Justice and Designated Agencies:** Oregon criminal offender information may be shared between authorized Criminal Justice and Designated Agencies only as specified in the Oregon Administrative Rules (OAR) and the Law Enforcement Data System (LEDS) Manual.
- (b) **Release of FBI criminal offender information:** Dissemination of FBI criminal offender information to public or private agencies by Criminal Justice or Designated Agencies is prohibited by 28 USC § 534 and 28 CFR 20.33(b). Inquiries for non-official purposes or the checking of records for unauthorized persons or agencies is prohibited. A person wishing to review his/her criminal history record maintained by the FBI should write to: Federal Bureau of Investigation, CJIS Division, Attn: SCU, Module D2, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306. The FBI will inform the person how to obtain a copy of his/her record and, if necessary, how to challenge the accuracy or completeness of that record.
- (c) **Release of criminal offender information to field personnel:** Milwaukie Police Department personnel shall not have access to criminal offender information until a fingerprint based background investigation has been completed and approved. Any radio transmission of criminal offender information should only occur when officer or citizen safety is in jeopardy. Cell phones should be used if possible. The transmission should be limited to essential details only, with maximized use of law enforcement

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codes (10 or 12 code), concealing information identifying individuals and offenses as much as possible. Plain text transmission of an entire record (summary or full) is prohibited.

Requests for criminal offender information other than as authorized in this policy should be referred to the nearest Oregon State Police, Identification Services Section located at 3772 Portland Rd. N.E., Salem, OR 97303. Inquiries may also be made through the OSP webpage at www.osp.state.or.us.

812.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Supervisor for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk. In those instances, cell phones should be used if possible. The transmission should be limited to essential details only, with maximized use of law enforcement codes (10 or 12 code), concealing information identifying individuals and offenses as much as possible. Plain text transmission of an entire record (summary or full) is prohibited.

Nothing in this policy is intended to prohibit broadcasting warrant information.

812.6 SECURITY OF PROTECTED INFORMATION

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include but are not limited to:

- (a) Developing and maintaining security practices, procedures, and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis, and containment of security incidents including computer attacks.

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- (d) Tracking, documenting, and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

812.7 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

812.7.1 LEDS TRAINING

All members who operate a terminal to access the LEDS network shall complete a LEDS System Training Guide at a level consistent with the member's duties. Each member who operates a terminal to access LEDS must be re-certified by the Department every two years (OAR 257-015-0050).

812.7.2 DESTRUCTION OF CRIMINAL OFFENDER INFORMATION

When any document providing criminal offender information has served the purpose for which it was obtained, it shall be destroyed by burning, shredding, or secure and confidential recycling.

Each employee shall be responsible for destroying the criminal offender information they receive.

812.8 TRAINING PROGRAM

All personnel authorized to process or release criminal offender information shall be required to complete a training program prescribed by the Law Enforcement Data System. The Training Division shall coordinate the course to provide training in the proper use, control, and dissemination of criminal offender information.

812.9 PENALTIES FOR MISUSE OF RECORDS

Violation of federal and state regulations governing access to criminal offender information can result in the department's access to that information being terminated. Violation of these procedures can be cause for discipline up to and including termination.

Computers and Digital Evidence

814.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

814.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

- (a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.
- (b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.
- (c) If the computer is off, do not turn it on.
- (d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
 1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
 2. Disconnect the power cable from the back of the computer box (For laptops, disconnect any power cable from the case and remove the battery).
- (e) Label each item with case number, evidence sheet number and item number.
- (f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- (g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At minimum, officers should document the following in related reports:
 1. Where the computer was located and whether or not it was in operation.
 2. Who was using it at the time.
 3. Who claimed ownership.
 4. If it can be determined, how it was being used.

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- (i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

814.2.1 BUSINESS OR NETWORK COMPUTERS

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence. Cases involving networks require specialized training which is available through the Northwest Regional Computer Forensic Lab, the Oregon State Police or another agency having certified examiners.

814.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to the Computer Forensic Examiner:

- (a) Copy of report(s) involving the computer, including the Evidence/Property sheet.
- (b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.
- (c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).
- (d) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

814.3 SEIZING DIGITAL STORAGE MEDIA

Digital storage media, to include hard discs, floppy discs, CDs, DVDs, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

- (a) If the media has a write-protection tab or switch, it should be activated.
- (b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request Property Control to copy the contents to an appropriate form of storage media.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

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- (d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.
- (e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

814.4 SEIZING PERSONAL COMMUNICATION DEVICES

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- (a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.
- (b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.
- (c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

814.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Officers handling and submitting evidence recorded by officers and stored digitally using digital cameras, audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

814.5.1 COLLECTION OF DIGITAL EVIDENCE

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

814.5.2 SUBMISSION OF DIGITAL MEDIA

The following are required procedures for the submission of digital media used by cameras or other recorders:

- (a) The recording media (smart card, compact flash card or any other media) shall be brought to the Property Room as soon as possible for submission into evidence.
- (b) Officers are not authorized to review or copy memory cards. The Police Technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards.
- (c) As soon as possible following the collection of evidence, the officer should remove the memory card from their digital camera and place the card into a plastic carrier. The card and carrier should be placed into a zip-lock bag. Officers shall write their name

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and the related case number on the outside of the bag before placing in the film drop box along with the evidence form.

- (d) The Police Technician will make a copy of the memory card using appropriate storage media. Once it is verified that the images are properly transferred to the storage media, the Police Technician will erase the memory card for re-use. The storage media will be marked as the original.
- (e) Officers requiring a copy of the digital files must request a copy on the evidence form when submitted to evidence.

814.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

- (a) Files should not be opened or reviewed prior to downloading and storage.
- (b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

814.5.4 PRESERVATION OF DIGITAL EVIDENCE

- (a) Only evidence technicians are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.
- (b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.
- (c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

Animal Control

820.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for animal control officers and Milwaukie Police Department personnel in dealing with animal control related calls for service and to set forth procedures regarding animal control services, the handling of injured animals, and the abatement of animal nuisances.

820.2 ANIMAL CONTROL OFFICER RESPONSIBILITY

The animal control officer (ACO) shall be responsible for enforcing local ordinances relating to animals, and for appropriately resolving or referring animal problems as outlined in this policy. The animal control officer shall be under the operational control of the Patrol Division. The animal control officer's assigned working hours will be scheduled by the Patrol Sergeant.

During hours when the animal control officer is on duty, requests for animal control services shall be assigned by the LOCom (Lake Oswego Communications) or the Patrol Sergeant.

Requests for assistance by the animal control officer shall be acknowledged and responded to promptly.

820.3 OFFICER RESPONSIBILITY

During hours when the animal control officer is off duty, or if the animal control officer is otherwise unavailable, the following animal-related calls for service will be handled by the appropriate on-duty officer.

An officer may be dispatched to animal related calls and should take appropriate actions to control the situation until the arrival of an animal control officer. Due to the hazards of handling animals without proper equipment, a responding officer generally should not attempt to capture and pick up any animal, but should keep the animal under observation until the arrival of an animal control officer. The following are examples of when an officer may consider acting before the arrival of the animal control officer:

- (a) When there is a threat to the public safety.
- (b) When an animal has bitten someone, officers should take measures to confine the animal and prevent further injury.
- (c) When an animal is creating a traffic hazard.
- (d) When the owner/handler has been arrested and there is no other alternative placement for the animal .
- (e) When the animal is gravely injured.

820.3.1 ANIMAL CRUELTY COMPLAINTS

State law requires that a sworn law enforcement officer investigate and take enforcement action in incidents of alleged cruelty to animals. An ACO who becomes aware of an animal cruelty complaint

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will request an officer to respond and assume the investigation. An animal control officer may be requested to assist with the investigation when appropriate for the purpose of handling the disposition of any animal(s) associated with the case (Oregon Revised Statutes 133.379).

820.3.2 STRAY DOGS

Attempts should be made to contact the owner of the stray dog. If the owner is contacted, the dog should be released to the owner and a citation may be issued if appropriate. If the animal is not released, it shall be transported to the Animal Shelter during normal business hours or alternatively to the department the holding pens. The transporting employee shall ensure the animal has sufficient food, water, and bedding.

The animal pick-up form must be completely filled out and placed in the ACO's box, with a copy forwarded to the Animal Shelter.

The animal control officer will transport any animals in the holding pens to the Animal Shelter as soon as he/she comes on duty. Once a dog has been taken into custody, all releases will be handled by the Animal Shelter. In cases where the ACO is not available, the Patrol Sergeant shall designate an alternate employee to transport so that animals are not held in the holding pens unnecessarily for extended periods.

820.3.3 ANIMAL BITE REPORTS

Officers shall obtain as much information as possible for forwarding to the animal control officer for follow-up. An Animal Bite Report Form must be completely filled out and attached to the incident report, with a copy forwarded to the County Health Department.

Officers shall instruct the owner of a biting animal, if contacted, to keep the animal confined on the property until contacted by the ACO. If the animal is a stray, then every effort shall be made to capture and impound the animal immediately.

820.3.4 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Officers shall obtain and forward to the ACO as much information as possible regarding the nature of the complaint including identity of the complaining person, owner information (if possible) and location of the problem. Officers will also document any actions taken and citation(s) issued in any related report.

In the event responding officers cannot fulfill urgent requests for service because the animal is difficult or dangerous to handle, the animal control officer may be called to duty to handle. If the animal control officer is unavailable, a supervisor may request the assistance of an animal control officer from an allied agency.

All requests to call in the animal control officer must be approved by a field supervisor or the Patrol Sergeant.

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820.4 DECEASED ANIMALS

Deceased animals on public property will be removed and properly disposed of by the animal control officer. Field officers will remove deceased animals when the animal control officer is not on duty. The deceased animals may be placed in the dead pan of the ACO truck.

- (a) For health and sanitary reasons, deceased animals should be placed in a sealed plastic bag prior to placing in the ACO truck.
- (b) Neither the ACO nor any Officer will be required to climb onto or under any privately owned structure for the purpose of removing a deceased animal.

Large animals such as deer, elk, coyotes, etc., should be moved to the side of the roadway, if possible, for later removal by the Road Department.

820.5 INJURED ANIMALS

When any injured domesticated animal is brought to the attention of a member of the Milwaukie Police Department, all reasonable attempts shall be made to contact the owner or responsible handler. When the owner or responsible handler cannot be located and the animal is not an immediate danger to the community, it shall be taken to a doctor of veterinary medicine as described below.

- (a) During normal business hours, the animal should be taken to an authorized veterinary care clinic
- (b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency & Critical Care Services Clinic.
- (c) The only exception to the above is when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.
 - 1. When the need to euthanize a seriously injured or dangerous animal exists, Policy Manual section 300 shall be followed. The decision to euthanize a seriously injured animal will rest with the supervisor.
- (d) Injured wildlife should be referred to the Marine Mammal Center, Oregon Department of Fish and Wildlife or the Oregon State Police, as applicable.
- (e) When handling dead or injured animals police department employees shall attempt to identify and notify the owner of the final disposition of the animal.
- (f) Each incident shall be documented to include, at minimum, the name of the reporting party and veterinary hospital and/or person to whom the animal is released. If the animal control officer is off duty, the information will be forwarded for follow-up.

820.6 CITATIONS

It should be at the discretion of the officer or the field supervisor as to the need for, or advisability of, the issuance of a citation for a violation.

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820.7 POST-ARREST PROCEDURES

The arresting officer should make a reasonable effort to ensure that animals or pets under a person's care will be provided with adequate care when that person is arrested. This is only required when there is no person to provide care and the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animals.

Relatives or neighbors may be contacted, with the owner's consent, to care for the animals. If no persons can be found or the owner does not consent, the appropriate animal control authority should be notified.

820.8 RESCUE OF ANIMALS IN VEHICLES

A member who has a good-faith belief that entry into a motor vehicle is necessary because a domestic animal inside the vehicle is in imminent danger of suffering harm may enter the vehicle to remove the animal (ORS 30.813). Members should:

- (a) Determine that the motor vehicle is locked or there is no other reasonable method for the animal to exit the vehicle.
- (b) Make a reasonable effort to locate the owner before entering the vehicle.
- (c) Take steps to minimize damage to the vehicle, using no more force than necessary to enter the vehicle and remove the animal.
- (d) Refrain from searching the vehicle or seizing items except as otherwise permitted by law.
- (e) Leave notice on or in the vehicle identifying the location where the animal has been taken and the name and Department of the member involved in the rescue.
- (f) Make reasonable efforts to contact the owner or secure the vehicle before leaving the scene.

Chapter 9 - Custody

Temporary Custody of Adults

900.1 PURPOSE AND SCOPE

900.1 PURPOSE AND SCOPE

The City of Milwaukie Police Department will maintain a Temporary Holding Facility Policy and Procedures Manual that consists of this Policy Manual §900 and incorporates the following Policy Manual sections:

- Policy Manual § 300 Use of Force
- Policy Manual § 306 Handcuffing and Restraints
- Policy Manual § 308 Control Devices and Techniques
- Policy Manual § 324 Temporary Custody of Juveniles
- Policy Manual § 418 Mental Illness Commitments
- Policy Manual § 420 Cite and Release Policy
- Policy Manual § 422 Arrest and Detention of Foreign Nationals
- Policy Manual § 428 Immigration Violations
- Policy Manual § 514 Drunk Driving Evidence and Collection
- Policy Manual § 902 Search Procedures for Arrestees
- Policy Manual § 1016 Communicable Diseases

The Department will maintain the custody of prisoners in accordance with this policy and the Procedures Manual and in accordance with Oregon Revised Statutes Chapter 169 and the laws as established by the State of Oregon, Board of Corrections.

The purpose of the Temporary Holding Facility Policy and Procedures Manual is to establish policies and procedures in the security and release of prisoners at the City of Milwaukie Police Department's Temporary Holding Facility.

900.1.1 SUPERVISION OF PEOPLE IN CUSTODY

No person will be held in the Temporary Holding Facility unless there is a designated employee, normally the arresting officer, who remains within the police building and within sight or sound of the person being held, who can supervise the Temporary Holding Facility and respond to emergencies within the Temporary Holding Facility. The person assigned to supervise the Temporary Holding Facility must not leave the police building for more than five minutes while anyone is in custody. This person will not have other duties that could conflict with the responsibility of supervision. The City will make arrangements to allow for reasonable break and rest periods for the person assigned.

900.1.2 DETENTION OF PEOPLE IN THE TEMPORARY HOLDING FACILITY

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It is the policy of the Milwaukie Police Department that people detained in the Temporary Holding Facility will be released or transported to another facility, per the provisions of this manual, as soon as possible and practical.

900.1.3 NON-DETAINABLE PEOPLE

Non-detainable persons are arrestees who fall within the following classifications and should not be detained in the Temporary Holding Facility, unless circumstances require.

Each person falling into one of the following categories should be transported to the County Jail, the designated medical facility or County Mental Health:

- (a) Any person who is sick or injured requiring medical attention
- (a) Any person with a medical condition, including pregnancy, who may require medical attention, supervision or medication during confinement. Prescription hormones will be treated like any other prescription medication necessary for an individual's health and wellbeing. Whenever a trans, intersex, and/or gender-nonconforming individual expresses a need for medical attention, members will handle the situation with the same urgency and respect as any medical need or injury
- (a) Any person who has claimed to have, is known to be afflicted with, or who displays symptoms of any communicable disease
- (a) Any person suffering from a severe mental disorder. Refer to Policy Manual § 418, which is incorporated as a part of this manual
- (a) Any combative or unruly person who may most likely cause damage to the facility or severely disrupt the good order of the Temporary Holding Facility
- (a) Anyone who is or may be contemplating suicide
- (a) Any person suspected of being under the influence of a hallucinogen, hyperglycemic agent, psychotropic medication, narcotics, sedatives, tranquilizers, anti-neoplastic (cancer) drugs, research medication or any person suffering from withdrawals of the above
- (a) For juveniles, see Section 900.3.4

900.1.4 DETAINABLE PERSONS

Persons under arrest or lawfully detained who fall within the following classifications may be detained in the Milwaukie Police Department Temporary Holding Facility with the approval of the Patrol Sergeant. This includes those arrested and detained pending:

- (a) Release on citation in accordance with the Cite and Release Policy in this manual
- (a) Transportation to the county jail
- (a) In-custody interview or other investigation
- (a)
- (b)
- (c)

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(d)

(e)

900.1.5 FACILITIES - DEFINITIONS

Temporary hold - means a facility, the principal purpose of which is the temporary detention of a person for four or less hours while awaiting court appearance or transportation to a local correctional facility (Oregon Revised Statutes 169.005).

Lock-up - means a facility for the temporary detention of arrested persons held up to 36 hours, excluding holidays, Saturdays and Sundays, but the period in lockup shall not exceed 96 hours after booking.

900.1.6 INTOXICATED PERSONS

Any officer encountering an inebriated individual who the officer feels is unable to care for themselves or who presents a danger to any other person should proceed with the most appropriate disposition from the following:

- (a) Attempt to identify the person and locate a relative or other responsible person within a reasonable distance to respond to take charge of the person, or;
- (b) Transport the individual to the nearest alcohol treatment facility.

If the person is in need of medical attention an ambulance should be summoned to transport the person to the nearest emergency room

Any person who is arrested for a criminal offense and who is in need of emergency medical treatment due to drug or alcohol intoxication, or any other reason, shall immediately be taken to the nearest appropriate treatment facility. The Sheriff's Office and county jail will not accept arrestees for intoxication only or when the person is so intoxicated as to present a health danger, without first being cleared by a physician stating the person may be safely lodged in jail.

900.1.7 TRANSPORTATION OF PERSONS IN CUSTODY

Whenever a person in custody is to be transported from the field or a the Temporary Holding Facility to another facility by a member of this department the transporting officer shall be responsible for the following:

- (a) Verify the identity of each person to be transported matches the booking paperwork;
- (b) Ensure that all pertinent documentation accompanies the person, such as copies of booking forms, medical records when appropriate, itemized list of persons property, warrant copies, etc.
- (c) Ensure that any known threat or danger the person may pose, such as escape risk, suicide potential, or medical condition, is recorded on the persons booking documentation and is transported with the person to the next facility. The transporting officer shall ensure such threat or danger is communicated to intake personnel at the facility.

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900.1.8 PEOPLE IN CUSTODY WITH ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, persons who are detained in the Temporary Holding Facility shall be permitted to retain possession of an orthopedic or prosthetic appliance if it is prescribed or recommended and fitted by a physician. However, if the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance shall be removed from the person and booked for safekeeping but shall be promptly returned if it is later determined that such risk no longer exists.

Whenever a prosthetic or orthopedic appliance is removed from a person the Patrol Sergeant shall be promptly apprised of the reason for the removal. If it is determined that the appliance will not be returned, the prisoner shall be examined as soon as practicable by a physician but no later than 24 hours after removal to determine if the removal will be injurious to the health or safety of the prisoner.

If the examining physician determines that removal is or will be injurious to the health or safety of the person and the appliance cannot be returned because of safety or security concerns the person should be transferred to an appropriate medical detention facility.

900.1.9 PROCEDURE FOR A PERSON IN CUSTODY ESCAPE

In the event a prisoner escapes while being transported, the officer shall do the following:

1. Immediately notify LOCOM of the escape, including a description of the suspect.
2. Evaluate the situation and use discretion before pursuing the suspect alone.
3. Notify the shift supervisor of the situation, and initiate steps to locate the suspect.
4. If the suspect is apprehended, a complete and detailed report will be completed and forwarded to the shift supervisor.
5. If the suspect is not apprehended, a complete and detailed report should be submitted to the DA's office for a warrant request.

900.2 DEPARTMENT ORGANIZATION AND RESPONSIBILITY

The following responsibilities for the Temporary Holding Facility operations have been established:

- (a) Facility Administrator: The Chief of Police shall be the facility administrator officially charged, by law, with the administration of the Temporary Holding Facility.
- (b) Temporary Holding Facility Manager: The Operations Captain will have the responsibility for planning, managing, administrative functions, review of the facility manual and the operations of the Temporary Holding Facility.
- (c) Maintenance Manager: The Patrol Sergeant will be responsible for overseeing the janitorial staff in the physical maintenance, cleanliness and supply of the Temporary Holding Facility.
- (d) Temporary Holding Facility Supervisor: The employee with 24 hour per day functional responsibility for the Temporary Holding Facility will be the Operations Sergeant - Any other supervisor may provide assistance as needed.

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- (e) Custodial Personnel: Custodial personnel shall be those on-duty sergeants, officers, detectives or other designated employees whose additional duties include the supervision of people that are detained in the Temporary Holding Facility.

900.3 PRISONER SUPERVISION AND CLASSIFICATION

900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Milwaukie Police Department, but should be transported to a jail facility, a medical facility or other type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported (ORS 169.105).
- (b) Any individual who has a medical condition, including pregnancy, or who may require medical attention, supervision or medication while in temporary custody.
- (c) Any individual who is seriously injured.
- (d) Individuals who are a suspected suicide risk (see the Civil Commitments Policy).
 - 1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release or a transfer to an appropriate facility is completed.
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated (ORS 430.399).
- (g) Any individual who has exhibited extremely violent or continuously violent behavior.
- (h) Any individual who has claimed, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk.
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.

900.3.2 LOG ENTRIES AND SECURITY CHECKS

- (a) All adult bookings should be logged into the Temporary Holding Facility Log. The following entries are to be completed by the booking officer and personnel responsible for maintaining those in custody in the facility:
 - 1. Case number
 - 2. Date/time of booking
 - 3. Charges
 - 4. Arrestee's name
 - 5. Arresting officer's name

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6. Date and time of release
 - (b) The log shall be kept in the booking area of the Temporary Holding Facility. It is the responsibility of the facility supervisor to ensure that all appropriate entries are made.
 - (c) The Patrol Sergeant should make periodic checks to ensure the log and security checks are made on time.
 - (d) The Facility Manager should review all Temporary Holding Facility Logs and shall report to the Facility Administrator as required.
 - (e) All completed logs and reports should be maintained in the Records Division for inspection by the Facility Manager, Facility Administrator or other officials as may be required.

900.3.3 PEOPLE IN CUSTODY CLASSIFICATION, SCREENING AND SEGREGATION

It is the policy of the Milwaukie Police Department Temporary Holding Facility to segregate prisoners.

- (a) It is necessary to establish a person in custody classification procedure wherein each person will be evaluated, prior to housing, according to categories of sex, age, criminal sophistication, seriousness of crime charged, assaultive/non-assaultive behavior, medical problems, mental state (including developmental disabilities) and sexual orientation and housed in order to provide for the safety of all people in custody and staff.
- (b) As part of the booking procedure, the booking officer should evaluate each incoming person in custody using the Person in Custody Classification and Screening Form. This form shall be completed in its entirety, in order to properly assign persons in custody according to sex, age, criminal sophistication, seriousness of crime charged, physical or mental health needs, assaultive/non-assaultive behavior and other criteria to ensure the safety of the all persons in custody and staff.
- (c) All employees with information relevant to an arrestee's risk of suicide shall ensure such information is provided to a supervisor and the arrestee's booking officer. During the booking procedure, the booking officer shall ask the prisoner if he/she is contemplating suicide. The officer shall evaluate the prisoner for other signs or indications the prisoner may be suicidal. If there is any suspicion the prisoner may be suicidal, he/she shall be transported to the county jail or appropriate mental health facility. The receiving staff shall be notified in writing (e.g., noted on the booking sheet) that the suspect may be suicidal.
- (d) It is the responsibility of the arresting officer's supervisor to ensure that the person in custody Classification and Screening Form has been properly completed. After the completion of the form the arresting officer's supervisor will be required to authorize, on a case by case basis, the placement of each Person in custody in the Temporary Holding Facility who is not immediately released or transported to the county jail or other appropriate facility.
 1. The person in custody will then be housed or transported.

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2. The completed classification form will be attached to the arrest report, booking forms and fingerprints as applicable.
 3. The Person in Custody Classification and Screening Form should be retained in the persons arrest file.
- (e) During the booking procedure, the booking officer shall evaluate each incoming person in custody to determine any apparent medical or health issues. The persons responses to such questions and the officer's observations shall be documented in the appropriate form. The booking officer shall promptly notify his/her supervisor of any conditions which may warrant immediate medical attention or other appropriate action.

900.3.4 TEMPORARY DETENTION OF JUVENILES

When a member of this department takes a juvenile into custody, that juvenile must be handled in a different manner than adults. Policy Manual § 324 is incorporated as a part of this manual and should be consulted regarding the policies and procedures for the temporary custody of juveniles.

All juvenile detentions will be logged per the provisions of Policy Manual § 324.

900.3.5 TEMPORARY DETENTION OF PERSONS

Whenever one or more persons are in custody, there will be at least one same employee who will be available and accessible to the person in custody, if available. Absent consent by a person in custody, employees of the opposite gender of the person in custody are not to search or enter an occupied cell if at all possible, unless another employee of the same gender is present. In the event there is not an employee of the same gender readily available to conduct searches and safety inspections, the person in custody will be transported to the county jail as soon as practical, or released pursuant to another lawful process (e.g., citation, O.R. release, etc.). For those arrestees that identify as non-binary or similar, the person will be asked for any preference as regard to who conducts a search and efforts will be made to identify the best employee(s) available to perform the operational duties when reasonably possible.

Persons under arrest or lawfully detained who fall within the following classifications may be detained in the Milwaukie Police Department Temporary Holding Facility with the approval of the Patrol Sergeant. This includes those arrested and detained pending:

- (a) Release on citation in accordance with the Cite and Release Policy in this manual
- (a) Transportation to the county jail
- (a) In-custody interview or other investigation

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900.3.6 HANDCUFFING OF PREGNANT ARRESTEES

No arrestee who is in labor shall be handcuffed or restrained by the wrists, ankles or both unless it is reasonably necessary for the safety of the arrestee, officers or others.

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900.4 INITIATING TEMPORARY CUSTODY

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the City jail or the appropriate mental health facility.

The officer should promptly notify the Patrol Sergeant of any conditions that may warrant immediate medical attention or other appropriate action. The Patrol Sergeant shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

900.4.1 INDIVIDUAL RIGHT NOTIFICATION

To ensure compliance with all treaty obligations, including consular notification and state and federal laws, an officer should ensure an individual who is in temporary custody receives an explanation in writing, with interpretation into another language if requested, of the following (2021 Oregon Laws, HB 3265 § 2):

- (a) The individual's right to refuse to disclose the individual's nationality, citizenship, or immigration status.
- (b) That the disclosure of the individual's nationality, citizenship, or immigration status may result in a civil or criminal immigration enforcement, including removal from the United States.

900.5 FIRE SAFETY

Every Temporary Holding Facility and lock-up facility shall be safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.

The person, designated by the facility supervisor as having responsibility for the Temporary Holding Facility should, at the beginning and end of each shift, inspect the Temporary Holding Facility to ensure:

- (a) No flammable materials are stored in the detention area
- (b) Fire extinguishers are serviceable
- (c) Cell keys are available
- (d) First aid kits are readily available and completely stocked
- (e) Smoke detectors are operational

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The Facility Supervisor or his/her designee shall inspect the facility on a monthly basis. The results of the monthly inspection shall be documented in writing. The inspection record shall be retained for two years.

900.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Milwaukie Police Department, the custody shall be promptly and properly documented in a custody log, including:

- (a) Identifying information about the individual, including his/her name.
- (b) Date and time of arrival at the Department.
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks.
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Any other information that may be required by other authorities, such as compliance inspectors.
- (h) Date and time of release from the Milwaukie Police Department.

The Patrol Sergeant should initial the log to approve the temporary custody and should also initial the log when the individual is released from custody or transferred to another facility.

The Patrol Sergeant should make periodic checks to ensure all log entries and safety and security checks are made on time.

900.5.2 NONDISCRIMINATION

The Milwaukie Police Department shall not deny services, benefits, privileges, or opportunities to an individual in custody based on a known or suspected immigration status, the existence of an immigration detainer, hold, notification, or other related federal immigration request, or a civil immigration warrant, except as required by law (2021 Oregon Laws, HB 3265 § 2).

900.6 EVACUATION OF TEMPORARY HOLDING FACILITY

In the event of a need to evacuate the detention area the discovering employee should immediately:

- (a) Notify the Fire Department, Patrol Sergeant and on-duty patrol personnel simultaneously through LOCOM
- (a) Initiate movement of all people to an area of safety through the utilization of the evacuation plan
- (a) Begin fire suppression procedures as applicable
- (a) Responding patrol officers under the direction of the Temporary Holding Facility Supervisor should be responsible for:
 - (a) The evacuation of prisoners

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- (a) Obtaining medical services as needed
- (a) Securing prisoners in a temporary holding area
- (a) Arranging transportation of prisoners to the county jail or other Temporary Holding Facility as necessary
- (a) Initiating an investigation concerning the origin of the fire along with filing necessary reports
- (a) The Facility Manager, in coordination with the Fire Department and qualified first aid/CPR instructional personnel, will oversee the training of all department personnel and ensure that they are familiar with:
 - (a) The Temporary Holding Facility policy and procedures; and
 - (a) Fire safety and evacuation plan including the use of the fire extinguisher
 - (a) The Fire Marshal should make annual inspections of the Temporary Holding Facility.

900.6.1 PRIMARY CONCERNS

- (a) Safety of public
- (b) Safety of department personnel
- (c) Safety of prisoners
- (d) Security of prisoners

900.6.2 NOTIFICATION

- (a) Patrol Sergeant
- (b) All available sworn personnel
- (c) Fire Department
- (d) Medical aid
- (e) Facility Manager
- (f) City Manager

900.6.3 EMERGENCY EVACUATION

When time permits, all persons in custody will be restrained, as deemed necessary by the officer conducting the evacuation. The evacuation will be conducted in an orderly fashion by one of the routes posted in the Temporary Holding Facility.

900.6.4 EVACUATION FORMATION AREA

All Individuals in custody will form in the designated location where they will be held until the Temporary Holding Facility can again be safely occupied, or as in the case of an emergency of a long duration until they can be transported to another facility.

If possible, juveniles are to be kept separate from adult prisoners, and females from male prisoners.

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Only after the safety and security of the people in custody is assured will personnel, not detailed to security, participate in fire suppression or other emergency activities.

900.6.5 CITYWIDE OR REGIONAL DISASTERS

In cases of citywide or regional disasters, the Patrol Sergeant may authorize the release of people detained for misdemeanors or felonies involving property crimes only. Every available effort will be made to continue the custody of violent felons or felons accused of violent crimes to ensure the safety of the public.

900.6.6 FIRST-AID/PROFESSIONAL MEDICAL ATTENTION

As necessary, evacuating personnel will apply first-aid techniques to those prisoners injured as a result of the emergency or injured during the evacuation procedure until professional medical aid arrives to assist.

900.6.7 REPORTS

The Patrol Sergeant will ensure that any emergency evacuation of the Temporary Holding Facility is documented and that copies of those reports be forwarded to the Temporary Holding Facility Manager and Temporary Holding Facility Administrator.

900.7 TELEPHONE CALLS BY PERSONS IN CUSTODY

Every prisoner, whether adult or juvenile, detained in the Temporary Holding Facility shall be entitled to the use of a telephone.

There is no obligation for the officer to make a call on a Person behalf - for example in the case of a person that is so intoxicated that he or she cannot make a call. An officer is not required to wake an intoxicated person three hours after booking so that they may complete a call.

There is also no limitation on the amount of time a persons phone call must last. A person in custody should be given sufficient time on the phone to contact whomever he/she desires and to arrange for necessary items because of his/her arrest. The phone calls are not intended to be lengthy conversations and the officer may use his or judgment in determining the duration of the calls.

900.7.1 TELEPHONE CALL PROCEDURES

All calls must be made collect, unless specifically authorized by the functional unit manager or designee. Charges cannot be made to third-party numbers, motels, hotels, places of business or to credit cards. Persons in custody may not participate in three-way or conference calls.

Directory assistance will be limited only by the limitations imposed by the telephone company (Oregon Administrative Rules 291-130-0006). If a call cannot be completed because there is no answer or a line is busy, the person in custody must hang up and try again later. Loitering near the telephones is prohibited.

As set out in Oregon Administrative Rules 291-130-0020, calls may be monitored for security purposes. Directly above each group of monitored telephones, a sign shall be posted stating in English and Spanish "Phone calls are subject to being monitored and recorded".

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Calls between a person in custody and an attorney, court or court official, legal aid bureau or other agency providing legal services to inmates, or any elected or appointed government official will be made on a legal telephone and will not be monitored. Designated staff will schedule and place the telephone call and verify the identity of the person called. The staff person placing the call shall leave the immediate area where the call is being placed; however, the person in custody may be kept under visual supervision by staff throughout the duration of the call.

Calls normally should not be terminated before the specified time limit, except when the nature of the conversation or the conduct of the person in custody:

- (a) Threatens or plans illegal action
- (b) Plans activities which violated facility rules, endangers security or endangers the safety of another human being
- (c) Disrupts the operation of the facility

900.7.2 ON-GOING TELEPHONE ACCESS

Once a person in custody has completed telephone calls provided under § 900.7 and it appears that the individual is not going to be released or transferred to another custodial facility, reasonable efforts should be made to provide the person with access to a telephone, as practical. In providing further access to a telephone, legitimate law enforcement interests such as officer safety, effect on ongoing criminal investigations and logistics should be balanced against the prisoner's desire for further phone access.

900.8 HANDLING OF PROPERTY BELONGING TO A PERSON IN CUSTODY

Officers shall take care in the handling of a person in custody's property to avoid discrepancies or losses.

Any personal property belonging to the person but retained by the officer for safekeeping, shall be kept in a secure location until the person is released or transferred. Smaller items such as a driver license, pocketknife, wallet, prescription medications and other similar property, shall be placed in a property bag and sealed. A list of the property, including detailed descriptions of prescription medications, shall be included on the property in custody report. Any property too large to be kept in the Temporary Holding Facility shall be booked into property for safekeeping. Property of a person in custody that is too large or will not otherwise be accepted by a receiving facility in the event of a prisoner transfer should be booked for safekeeping.

Property belonging to the prisoner, but retained by the officer as evidence, shall be booked according to procedures. The prisoner shall be advised that such property will be kept as evidence and where demanded, the officer will issue the prisoner a receipt. Such receipt may be a copy of the property booking form, written out in the officer's handwriting or typed for his/her personal signature. It should include the description of the property (but not its value), the case number, date, time, officer's badge number and signature. Where a receipt is issued, it should be mentioned in the arrest report.

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900.8.1 VERIFICATION OF PERSON IN CUSTODY'S MONEY

All money belonging to the person in custody and retained by the officer shall be counted in front of the person in custody. When possible, the person in custody should initial the dollar amount on the booking sheet. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated, but not added to the cash total. Rings and other jewelry of apparent value or small enough to be easily lost should also be sealed in an envelope. All envelopes should clearly indicate the contents on the front. The person sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added to the cash envelope, the officer making such change shall enter the amount below the original entry and initial it. The total amount of money in the envelope should always be computed and written on the outside of the envelope.

900.8.2 RELEASE OF PROPERTY

Release of any property to any person requires the recipient's signature on the appropriate form. Any request for release of property by a person in custody must be made in writing on the booking sheet.

When person is released from custody, all property will be returned to him/her and he/she will be required to sign the back of the booking sheet.

If a person is released to the court or an officer of another agency, all property will be released to that officer who will be required to verify and sign for the property. The officer transporting person(s) to court is required to obtain the receiving officer's signature on the booking form as notice of receipt of the person's property.

Any alleged shortage or discrepancy shall be brought to the attention of the Patrol Sergeant who will interview the person claiming the shortage prior to his/her release. The Patrol Sergeant shall ensure that a search for the alleged missing item(s) is complete and shall attempt to prove or disprove the claim. A written claim by the person shall be requested where the discrepancy cannot be resolved.

900.9 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY

The Operations Captain will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Milwaukie Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate.
- (b) Immediate notification of the Patrol Sergeant, Chief of Police and Criminal Investigations Captain.
- (c) Notification of the spouse, next of kin or other appropriate person.
- (d) Notification of the appropriate prosecutor.
- (e) Notification of the City Attorney.
- (f) Notification of the Medical Examiner.

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- (g) Evidence preservation.

900.9.1 SECURITY

- (a) At no time are firearms, deadly weapons, or any type of explosive device permitted within the confines of the Temporary Holding Facility. Weapons should be properly secured in the gun lockers outside the entrance to the Temporary Holding Facility. An exception may occur only during emergencies upon approval of the Facility Administrator, Facility Manager, or Patrol Sergeant.
- (b) Temporary Holding Facility doors are to be kept locked at all times except during routine cleaning when no prisoners are in custody or in the event of an evacuation.
- (c) Cell doors are to be locked at all times when prisoners are detained in the facility.
- (d) No personnel shall smoke at any time while in the detention area. No prisoner shall be allowed to smoke or possess smoking materials in that area.
- (e) Restraint devices such as handcuffs, flex-cuffs, belly-chains and leg restraints will be used in accordance with existing department policy.
- (f) Use of the leg restraint device or other restraints will only be used upon approval of the Patrol Sergeant and in accordance with Policy Manual § 306 that is incorporated as a part of this manual.
- (g) All personnel shall comply with all department use of force directives, including Policy Manual § 300, incorporated herein.

900.9.2 RECEIPT OF PERSONS IN CUSTODY

The arresting officer should:

- (a) Make a thorough search of all persons booked into the Temporary Holding Facility. Female prisoners should be searched by female officers or other female staff whenever possible
- (b) Inventory and record all property removed from the prisoner's person
- (c) Secure property for safekeeping
- (d) Remove all hazardous items from the prisoner's person
- (e) Remove belts, shoes and jacket
- (f) All prisoners arrested, both adult and juveniles, will be photographed. Photographs will be taken by the arresting officer unless prisoners are transported to a booking facility such as the Clackamas County Jail or the Clackamas County Juvenile Reception Facility where they will be photographed.
- (g) The arresting officer will seek approval from his or her supervisor regarding the decision to temporarily keep the prisoner or immediately transport to a booking facility.
- (h) Complete the City of Milwaukie Police Department booking form or County Intake Form.

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- (i) In the case of an arrest involving an intoxicated person, and the person is not eligible to be released or transported to a Detoxification Center, immediately proceed to the Clackamas County Jail for processing.
- (j) Before the procedure is completed, the arresting officer will log the person into the Temporary Holding Facility Log. This procedure is to be completed regardless of the time the prisoner is to be held in the facility.

900.9.3 CUSTODY BEDDING

- (a) The officer in charge should offer one blanket to each person held in the temporary facility.
- (b) Clean bedding should be stored in the Temporary Holding Facility storage room.
- (c) Blankets that have been used by a person should be placed in the laundry bin after use by the officer releasing or transporting the person.
- (d) Used bedding will be cleaned, as needed, upon the direction of the Temporary Holding Facility Manager. It is the manager or his/her designee's responsibility to ensure that adequate supplies of clean blankets are available in the storage room for issue, as needed.

900.9.4 FOOD SERVICE

- (a) Prisoner food will be purchased from local restaurants.
- (b) Meals will be provided for prisoners detained as needed or when appropriate.

900.9.5 ATTORNEYS

- (a) Attorneys who need to interview a person in custody should do so inside the Temporary Holding Facility in the secure interview room.
- (b) Both the attorney and person in custody should be searched for weapons prior to being admitted to the Temporary Holding Facility interview room and again after leaving.
- (c) Attorneys must produce a current Oregon BAR card as well as other matching appropriate identification.
- (d) Interviews between attorneys and their clients shall not be monitored or recorded.

900.9.6 RELEASE OF PEOPLE FROM CUSTODY

- (a) The Temporary Holding Facility should be inspected for damage prior to the release or transportation of any person from custody.
- (b) Any damages should be noted and, if necessary, an additional crime report completed. If additional charges are warranted they will be made. Photographic evidence should be obtained and documented to support additional charge. People in custody shall be released in accordance with state law. The releasing officer will be responsible for the following:
 - 1. All proper reports and forms shall be completed prior to release.
 - 2.

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3. All property, not to include evidence, contraband, or dangerous weapons shall be returned to the prisoner.
4. The appropriate Temporary Holding Facility Log will be completed showing the date, time, and reason for release, as well as the releasing officer's name.
5. Notifying LOCOM of the prisoner's release.
6. The person being released will be escorted from the Temporary Holding Facility and police facility by a department employee. At no time will a released person be allowed in any secure area of the station without personal supervision by an employee.

900.9.7 FACILITY SANITATION AND MAINTENANCE

The Operations Sergeant should inspect the Temporary Holding Facility once per day and once per night to ensure that the detention area is clean and maintained to an acceptable level of cleanliness. The Temporary Holding Facility shall be cleaned, as necessary, in order to provide a proper custodial and working environment. Any maintenance problems will be reported to the facility manager.

900.9.8 DEATH OR SERIOUS INJURY OF A PERSON IN CUSTODY

In the event of a serious injury or death of a person in custody of this department shall:

- Request medical response through LOCOM Dispatch
- Notify the patrol sergeant and request immediate response
- Notify both Captains and the Chief
- Secure the area and preserve the scene / evidence for investigation

If the incident involves a death, the Chief of Police will designate the Major Crimes Team or an outside agency to conduct the investigation. The medical examiner will certify the cause and manner of all deaths.

900.9.9 ACCESS TO FAITH AND MORALS BASED PROGRAMS

Consistent with available resources, safety and security, the religious beliefs and needs of all persons in custody should be reasonably accommodated, including reasonable access to clergy members and spiritual advisers, volunteer religious organizations, faith and morals based programs, and other secular volunteer programs. No person shall be required to participate in any such program.

Custodial Searches

902.1 PURPOSE AND SCOPE

The purpose of this policy is to establish consistent department procedures which conform to Oregon Revised Statutes 131.605 to 131.625 and Oregon Revised Statutes 133.525 to 133.537, regarding lawful searches.

902.2 DEFINITIONS OF SEARCHES

Frisk or Pat-Down Search - This is the type of search used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, or other Persons present (Oregon Revised Statutes 131.605).

Booking Search - This search is used in the jail and again involves a thorough patting down of an individual's clothing. All pockets, cuffs, etc., on the clothing are checked to locate all personal property, contraband, or weapons. The prisoner's personal property is taken and inventoried.

Strip Search or Visual Body Cavity Search -

This is a search that requires a person to remove or rearrange some or all of their clothing to permit a visual inspection of the underclothing, breasts, buttocks or genitalia of such person. This includes monitoring of an arrestee showering or changing clothes where the arrestee's private underclothing, buttocks, genitalia or female breasts are visible to the monitoring employee. Such a search would be extremely unusual for members of the Milwaukie Police Department.

Physical Body Cavity Search -

This is a search that includes physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of a person, and the vagina of a person. Such a search would be extremely unusual for members of the Milwaukie Police Department.

902.3 PAT DOWN SEARCHES

(Note: same as Policy 323.3) The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

Valid consent, Incident to a lawful arrest, legitimate community caretaking interests, vehicle searches under certain circumstances, exigent circumstances, Pat Down (Frisk) Search, and plain view. Pat down searches requires a lawful stop with a reasonable suspicion the person is carrying a weapon or implements of escape incident to a lawful arrest. In a law full pat down, an officer may pat down the outer surfaces of a person's clothing. If, during a pat-down, the officer feels an object they reasonably suspects may be a weapon by its contour, the officer may reach for and remove that object. The officer must have articulable facts supporting the decision to frisk and

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be able to explain why they believed the subject might pose an immediate threat to the officer or others. Circumstances which can contribute to justification of a pat-down search include, but are not limited to the following:

- The type of crime or circumstances being investigated.
- Current or prior use or threatened use of weapons.
- The behavior and demeanor of the subject.
- Visual or physical indicators the subject could be carrying a concealed weapon.
- Statements made by the subject or witnesses.

A pat-down is an external patting of the subjects outer clothing. Officers should generally not put their hands under the subjects outer clothing unless they feel something they reasonably believe is a weapon.

Employees will ensure their actions related to a pat down search are in full compliance with Policy 402. Decisions to conduct a pat down search of a person will not be based solely on the person's assumed membership in a protected class of people, without any other individualized and articulable suspicion of the person being stopped. (ORS 131.625)

Prior to detaining any individual in any police vehicle, an officer should conduct a normal pat-down search of that individual for weapons or means of escape.

Whenever reasonably practical under the circumstances, a pat-down search of an individual should be conducted by an officer of the same gender as the person being searched. Officers are to be considerate that a person may identify as a different gender than perceived. Pat-down searches should generally be performed by an officer of the same gender as the person to be searched present themselves. For those arrestees that identify as non-binary or similar, the person will be asked for any preference as regard to who conducts a search and efforts will be made to identify the best employee(s) available to perform the operational duties when reasonably possible. Absent the availability of a same gender officer, it is recommended that a witness officer be present during any pat-down search of an individual of the opposite gender as the searching officer.

Pat down searches will be conducted in a gender respectful manner when practical. This includes for non-binary individuals. Based on the totality of circumstances at the and available personnel on scene, on officer is not precluded from conducting a pat down when legally permissible. Considerations will be taken if the person announces cultural or religious accommodations of a serious nature.

902.4 ARRESTEE PROPERTY INVENTORIES

- (a) Any person taken into custody may be subjected to pat-down searches, metal detector searches, and thorough clothing searches in order to discover and retrieve concealed weapons, means of escape, and contraband prior to being placed in a City temporary holding facility. An officer should inventory an arrestee's personal property before the

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arrestee is placed in a department vehicle or taken inside the temporary holding facility, jail, or transferred to another agency's custody. Officers should conduct the inventory by removing all items from the arrestee's clothing and any open container in the arrestee's possession. Closed containers should be opened and inventoried only when:

Reasonable suspicion exists that the contents of the container may pose significant safety risk and permission for the inventory is approved by a supervisor.

The arrestee consents to or requests an inventory of the contents of the closed container.

The closed container is designed for carrying money and/or small valuables on or about the person. This includes, but is not limited to, closed purses, closed coin purses, closed wallets, luggage, backpacks, briefcases, and closed fanny packs

902.5 STRIP SEARCHES

- (a) No strip search or visual body cavity search will be conducted without prior written authorization from a supervisor. The time, date, and place of the search, the name and gender or gender identity of the person conducting the search and a statement of the results of the search, a description of the nature and extent of the search, will be recorded in the arrest record. A copy of the written authorization and recorded information will be retained and made available to the arrestee or other authorized representative upon request. For clarification, a visual body cavity search is a non-physical contact observation. Such a search would be extremely unusual for members of the Milwaukie Police Department.
- (a) All strip and visual body cavity searches will be conducted under sanitary conditions and in an area of privacy so that the search cannot be observed by persons not participating in the search.
- (b) Unless conducted by a physician or other licensed medical personnel, the officer(s) conducting the strip search or visual body cavity search will be of the same gender as the person being searched. In the case of a person identifying as non-binary or if a person identifies a preference of gender to be searched by based on the arrestee's gender identity, the search will be conducted based on the request.
- (c) Whenever possible, a second officer observer should also be present during the search, using the same gender criteria as under Section (c), for security and as a witness to the finding of evidence. No unnecessary persons will be present or able to view the procedure.
- (d) The officer conducting a strip search or visual body cavity search will not touch the breasts, buttocks or genitalia of the person being searched.
- (e) No employee should view an arrestee's private underclothing, buttocks, genitalia or female breasts while that person is showering or changing clothes unless the arrestee otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the arrestee with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to

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obtain the arrestee's consent and/or otherwise protect the arrestee's privacy and dignity.

Nothing in this policy section prohibits the otherwise lawful collection of trace evidence from an arrestee in accordance with the provisions of (b) through (f) above and based on a valid exigency, consent or a search warrant.

902.5.1 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches, other than visual non evasive observation of the mouth or nose, will not be conducted by City personnel. In such cases that a physical body cavity search is necessary for evidentiary or custodial purposes, the arrestee will be taken to Clackamas County Jail, and a search warrant will be obtained prior to any search.

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h) 1.

902.6 CLOSED CONTAINER SEARCHES

Closed containers will not be opened for inventory purposes except for the following, which will be opened for inventory: wallets, purses, coin purses, fanny packs, personal organizers, luggage, briefcases or other closed containers designed for carrying money or small valuables, or closed containers which are designed for hazardous materials.

Other closed containers will be opened and inventoried if the owner acknowledges they contain cash in excess of \$10, valuables or a hazardous materials.

Prison Rape Elimination

904.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect and respond to sexual abuse, harassment and retaliation against prisoners in the Milwaukie Police Department Temporary Holding Facilities (28 CFR 115.111).

904.1.1 DEFINITIONS

Definitions related to this policy include:

Intersex - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

Sexual abuse - Any of the following acts, if the prisoner does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of another person, excluding contact incidental to a physical altercation (28 CFR 115.6)

Sexual abuse also includes abuse by a staff member, contractor or volunteer as follows, with or without consent of the prisoner or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Contact between the mouth and any body part where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire

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- Any attempt, threat or request by a staff member, contractor or volunteer to engage in the activities described above
- Any display by a staff member, contractor or volunteer of his/her uncovered genitalia, buttocks or breast in the presence of a prisoner or resident
- Voyeurism by a staff member, contractor or volunteer (28 CFR 115.6)

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one prisoner or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to a prisoner or resident by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6).

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

904.2 POLICY

The Milwaukie Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Milwaukie Police Department will take immediate action to protect prisoners who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162).

904.3 PREA COORDINATOR

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement and oversee department efforts to comply with PREA standards in the Milwaukie Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

- (a) Developing and maintaining procedures to comply with the PREA Rule.
- (b) Ensuring that any contract for the confinement of Milwaukie Police Department prisoners includes the requirement to adopt and comply with applicable PREA and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect prisoners from sexual abuse (28 CFR 115.113). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.
- (d) Developing methods for staff to privately report sexual abuse and sexual harassment of prisoners (28 CFR 115.151).

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- (e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators and department leadership to an incident of sexual abuse (28 CFR 115.165).
- (f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):
 - 1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" or a similarly comprehensive and authoritative protocol.
 - 2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
 - 3. A process to document all referrals to other law enforcement agencies.
 - 4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
 - 5. In accordance with security needs, provisions to permit, to the extent available, prisoner access to victim advocacy services if the prisoner is transported for a forensic examination to an outside hospital that offers such services.
- (g) Ensuring that prisoners with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing or vision disabilities) (28 CFR 115.116).
 - 1. The agency shall not rely on other prisoners for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the prisoner's safety, the performance of first-response duties under this policy, or the investigation of a prisoner's allegations of sexual abuse, harassment or retaliation.
- (h) Publishing on the department's website:
 - 1. Information on how to report sexual abuse and sexual harassment on behalf of a prisoner (28 CFR 115.154).

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2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).
- (i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187).
 1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.
 2. The data shall be aggregated at least annually.
- (j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house prisoners overnight (28 CFR 115.193).
- (k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

904.4 REPORTING SEXUAL ABUSE AND HARASSMENT

Prisoners may make reports verbally, in writing, privately or anonymously of any of the following (28 CFR 115.151):

- Sexual abuse
- Sexual harassment
- Retaliation by other prisoners or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

During intake the Department shall notify all prisoners of the zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward prisoner reports of sexual abuse and sexual harassment to agency officials. This allows the prisoner to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

904.4.1 MEMBER RESPONSIBILITIES

Department members shall accept reports from prisoners and third parties and shall promptly document all reports (28 CFR 115.151).

All members shall report immediately to the Patrol Sergeant any knowledge, suspicion or information regarding:

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- (a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.
- (b) Retaliation against prisoners or the member who reports any such incident.
- (c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

904.4.2 PATROL SERGEANT RESPONSIBILITIES

The Patrol Sergeant shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect or violations leading to sexual abuse, harassment or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Patrol Sergeant shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that a prisoner was sexually abused while confined at another facility, the Patrol Sergeant shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Patrol Sergeant shall document such notification (28 CFR 115.163).

If an alleged prisoner victim is transferred from the Temporary Holding Facility to a jail, prison or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the prisoner's potential need for medical or social services, unless the prisoner requests otherwise (28 CFR 115.165).

904.5 INVESTIGATIONS

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

904.5.1 FIRST RESPONDERS

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

- (a) Separate the parties.
- (b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.
- (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

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- (d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

904.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

- (a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.
- (b) Interview alleged victims, suspects and witnesses.
- (c) Review any prior complaints and reports of sexual abuse involving the suspect.
- (d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (e) Assess the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as a prisoner or a member of the Milwaukie Police Department.
- (f) Document in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.
- (g) Refer allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe a prisoner sexually abused another prisoner in the Temporary Holding Facility (28 CFR 115.178).
- (h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

904.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

904.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No prisoner who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

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Prisoner victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

904.5.5 CONCLUSIONS AND FINDINGS

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Manager. The Chief of Police or City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with prisoners and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with prisoners by a contractor or volunteer.

904.6 RETALIATION PROHIBITED

All prisoners and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Patrol Sergeant or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for prisoner victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for prisoners or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Patrol Sergeant or the authorized designee shall identify a staff member to monitor the conduct and treatment of prisoners or members who have reported sexual abuse and of prisoners who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of prisoners, such monitoring shall also include periodic status checks.

904.7 REVIEWS AND AUDITS

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904.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- (d) Assess the adequacy of staffing levels in that area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

904.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

- (a) Identification of any potential problem areas.
- (b) Identification of any corrective actions taken.
- (c) Recommendations for any additional corrective actions.
- (d) A comparison of the current year's data and corrective actions with those from prior years.
- (e) An assessment of the department's progress in addressing sexual abuse.

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The report shall be approved by the Chief of Police and made readily available to the public through the department website or, if it does not have one, through other means. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Milwaukie Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

904.8 RECORDS

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

904.9 TRAINING

All employees, volunteers and contractors who may have contact with prisoners shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Administrative Captain shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and prisoners' right to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which prisoners are most vulnerable.
- The right of prisoners and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all prisoners.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.

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Prison Rape Elimination

- Sexual abuse evidence collection in confinement settings.
- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Administrative Captain shall maintain documentation that employees, volunteers, contractors and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with prisoners shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

Chapter 10 - Personnel

Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Milwaukie Police Department and that are promulgated and maintained by the Department of Human Resources.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Milwaukie Police Department provides equal opportunities for applicants and employees, regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, or any other protected class or status. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.2.1 MINIMUM REQUIREMENTS

The following minimum employment standards for law enforcement officers are set by the Oregon Department of Public Safety Standards and Training (Oregon Administrative Rules 259-008-0010):

- (a) A officer may not be employed for more than 18 months without being a US citizen. A corrections officer may not be employed for more than one year without being a US citizen.
- (b) Must be at least 21 years of age.
- (c) Must not have been convicted of any felonies; any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug; or any law involving dishonesty or moral turpitude as identified in Oregon Administrative Rules 259-008-0070.
- (d) Must be of good moral fitness as determined by a thorough background investigation.
- (e) Must possess a high school diploma or demonstrate successful completion of General Education Development (GED) Test.
- (f) Non-sworn position minimum standards for employment are set by the Milwaukie Department of Human Resources:
 - 1. Must not have been convicted of any felonies; any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or

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dangerous drug; or any law involving dishonesty or moral turpitude as identified in Oregon Administrative Rules 259-008-0070.

2. Must be of good moral fitness as determined by a thorough background investigation.
3. Must possess a high school diploma or demonstrate successful completion of the General Education Development (GED) Test.

1000.3 STANDARDS

Employment standards shall be established for each job classification and shall include minimally, the special training, abilities, knowledge and skills required to perform the duties of the job in a satisfactory manner. The City of Milwaukie Department of Human Resources maintains standards for all positions.

The dilemma facing the Department is one of developing a job-valid and non-discriminatory set of policies which will allow it to lawfully exclude persons who do not meet the City of Milwaukie or State of Oregon hiring standards. The disqualifiers listed below are examples and are not intended to be all inclusive. Other factors may also disqualify applicants. Final decisions will be at the discretion of the Chief of Police.

The following standards have been adopted for public safety applicants:

1000.3.1 OPERATION OF A MOTOR VEHICLE

- (a) The ability to possess a valid Oregon driver's license
- (b) The ability to possess a valid State of Washington driver's license (if residential requirements of the State are maintained)
- (c) The ability to drive safely
- (d) The ability to control a motor vehicle at high speeds
- (e) The ability to operate a motor vehicle in all types of weather conditions
- (f) The following shall be disqualifying:
 1. Receipt of three or more moving violations (or any single instance of a potential life threatening violation, such as reckless driving, speed contest, suspect of a pursuit, etc.) within three years prior to application. Moving violations for which there is a factual finding of innocence shall not be included.
 2. Involvement as a driver in two or more chargeable (at fault) collisions within three years prior to date of application.
 3. A conviction for driving under the influence of alcohol and/or drugs within three years prior to application or any two convictions for driving under the influence of alcohol and/or drugs.

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1000.3.2 INTEGRITY

- (a) Refusing to yield to the temptation of bribes, gratuities, payoffs, etc.
- (b) Refusing to tolerate unethical or illegal conduct on the part of other law enforcement personnel.
- (c) Showing strong moral character and integrity in dealing with the public.
- (d) Being honest in dealing with the public.
- (e) The following may be disqualifying:
 - 1. Any material misstatement of fact or significant omission during the application or background process shall be disqualifying, including inconsistent statements made during the initial background interview (Personal History Statement or Supplemental Questionnaire) or discrepancies between this background investigation and other investigations conducted by other law enforcement agencies.
 - 2. Any forgery, alteration, or intentional omission of material facts on an official employment application document or sustained episodes of academic cheating.

1000.3.3 CREDIBILITY AS A WITNESS IN A COURT OF LAW

- (a) The ability to give testimony in a court of law without being subject to impeachment due to his/her honesty or veracity (or their opposites) or due to prior felony conviction.
- (b) The following may be disqualifying:
 - 1. Conviction of any criminal offense classified as a misdemeanor under Oregon law within three years prior to application
 - 2. Conviction for two or more misdemeanor offenses under law as an adult
 - 3. Conviction of any offense classified as a misdemeanor under Oregon law while employed as a peace officer (including military police officers)
 - 4. Admission(s) of having committed any act amounting to a felony (including felonies treated as misdemeanors at sentencing) under Oregon law, as an adult, within five years prior to application or while employed as a peace officer (including military police officers)
 - 5. Admission(s) of administrative conviction of any act while employed as a peace officer (including military police officers) involving lying, falsification of any official report or document, or theft
 - 6. Admission(s) of any act of domestic violence as defined by law, committed as an adult
 - 7. Admission(s) of any criminal act, whether misdemeanor or felony, committed against children including but not limited to: molesting or annoying children,

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child abduction, child abuse, lewd and lascivious acts with a child, or indecent exposure. Acts of consensual unlawful intercourse accomplished between two minors shall not be included, unless more than three years difference in age existed at the time of the acts

8. Any history of actions resulting in civil lawsuits against the applicant or his/her employer may be disqualifying

1000.3.4 DEPENDABILITY

- (a) A record of submitting reports on time and not malingering on calls
- (b) A record of being motivated to perform well
- (c) A record of dependability and follow through on assignments
- (d) A history of taking the extra effort required for complete accuracy in all details of work
- (e) A willingness to work the hours needed to complete a job
- (f) The following may be disqualifying:
 1. Missing any scheduled appointment during the process without prior permission
 2. Having been disciplined by any employer (including military) as an adult for abuse of leave, gross insubordination, dereliction of duty or persistent failure to follow established policies and regulations
 3. Having been involuntarily dismissed (for any reason other than lay-off) from two or more employers as an adult
 4. Having a work history that indicates an inability to maintain a long-term relationship with an employer or to establish and work toward achieving long-term goals
 5. For officer applicants having undergone personal bankruptcy more than once; having current financial obligations for which legal judgments have not been satisfied; currently having wages garnished; or any other history of financial instability. The credit history of an applicant or employee shall not be used or obtained as part of an employment decision, including hiring, discharge, promotion or demotion, unless the position qualifies as a public safety officer as defined in OAR 839-005-0075 (ORS 659A.320).
 6. Resigning from any paid position without notice may be disqualifying, except where the presence of a hostile work environment is alleged
 7. Having any outstanding warrant of arrest at the time of the application

1000.3.5 LEARNING ABILITY

- (a) The ability to comprehend and retain information

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- (b) The ability to recall information pertaining to laws, statutes, codes, etc.
- (c) The ability to learn and to apply what is learned
- (d) The ability to learn and apply the material, tactics and procedures that are required of a law enforcement officer
- (e) The following may be disqualifying:
 - 1. Being under current academic dismissal from any college or university where such dismissal is still in effect and was initiated within the past two years prior to the date of application
 - 2. Having been academically dismissed from any DPSST certified basic law enforcement academy wherein no demonstrated effort has been made to improve in the deficient areas, except: subsequent successful completion of another DPSST basic law enforcement academy shall rescind this requirement

1000.3.6 PERSONAL SENSITIVITY

- (a) The ability to resolve problems in a way that shows sensitivity for the feelings of others.
- (b) Empathy
- (c) Discretion, not enforcing the law blindly
- (d) Effectiveness in dealing with people without arousing antagonism
- (e) The ability to understand the motives of people and how they will react and interact
- (f) The following may be disqualifying:
 - 1. Having been disciplined by any employer (including the military and/or any law enforcement training facility) for acts constituting racial, ethnic or sexual harassment or discrimination
 - 2. Uttering any epithet derogatory of another person's race, religion, gender, national origin or sexual orientation
 - 3. Having been disciplined by any employer as an adult for fighting in the workplace

1000.3.7 JUDGMENT UNDER PRESSURE

- (a) The ability to apply common sense during pressure situations
- (b) The ability to make sound decisions on the spot
- (c) The ability to use good judgment in dealing with potentially explosive situations
- (d) The ability to make effective, logical decisions under pressure
- (e) The following may be disqualifying:

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1. Admission(s) of administrative conviction or criminal convictions for any act amounting to assault under color of authority or any other violation of federal or state Civil Rights laws
2. Any admission(s) of administrative conviction or criminal conviction for failure to properly report witnessed criminal conduct committed by another law enforcement officer

1000.3.8 ILLEGAL USE OR POSSESSION OF DRUGS

- (a) The following examples of illegal drug use or possession will be considered automatic disqualifiers for public safety applicants, with no exceptions:
1. Any adult use or possession of a drug classified as a hallucinogenic within seven years prior to application for employment
 2. Any adult use or possession of marijuana within one year prior to application for employment
 3. Any other illegal adult use or possession of a drug not mentioned above (including cocaine) within three years prior to application for employment
 4. Any illegal adult use or possession of a drug while employed in any law enforcement capacity, military police, or as a student enrolled in college-accredited courses related to the criminal justice field
 5. Any adult manufacture or cultivation of a drug or illegal substance
 6. Failure to divulge to the Department any information about personal illegal use or possession of drugs
 7. Any drug test of the applicant, during the course of the hiring process, where illegal drugs are detected
- (b) The following examples of illegal drug use or possession will be considered in relationship to the overall background of that individual and may result in disqualification:
1. Any illegal use or possession of a drug as a juvenile
 2. Any illegal adult use or possession of a drug that does not meet the criteria of the automatic disqualifiers specified above (e.g., marijuana use longer than one year ago or cocaine use longer than three years ago.)
 3. Any illegal or unauthorized use of prescription medications

Evaluation of Employees

1002.1 PURPOSE AND SCOPE

The department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

1002.2 POLICY

The Milwaukie Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion, and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1002.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and non-sworn supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

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Evaluation of Employees

1002.4 FULL TIME PROBATIONARY PERSONNEL

Non-sworn personnel are on probation for six months before being eligible for certification as permanent employees. An evaluation is completed monthly for all full-time non-sworn personnel during the probationary period.

Sworn personnel are on probation for 18 months before being eligible for certification as permanent employees. Probationary officers are evaluated daily, weekly and monthly during the probationary period.

1002.5 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to three types of performance evaluations:

Regular - For patrol personnel and those assignments/positions that have scheduled shift changes, an evaluation "Employee Performance Summary" shall be completed twice a year in conjunction with the January and July shift changes. These two "Employee Performance Summary" forms will be combined in January of each year to make up one formal evaluation. For those assignments that do not require a shift change and/or change in direct supervision, the evaluations shall be completed each January.

Transfer - If an employee is transferred from one assignment to another in the middle of a six-month evaluation period and more than 90 days have transpired since the shift change, then an evaluation shall be completed by the immediate supervisor before the transfer is made. No additional evaluation will be required at the end of that six-month rating period.

Special - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (work plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

1002.6 EVALUATION INTERVIEW

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The supervisor and employee will sign and date the evaluation. Permanent employees may also write comments in the employee comments section of the performance evaluation report.

1002.7 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the rater's supervisor (Captain). The Captain shall review the evaluation for

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fairness, impartiality, uniformity, and consistency. The Captain shall evaluate the supervisor on the quality of ratings given.

1002.8 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief of Police for the tenure of the employee's employment. A copy will be given to the employee and a copy will be forwarded to City Department of Human Resources.

Special Assignments and Promotions

1004.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Milwaukie Police Department.

1004.2 POLICY

The Milwaukie Police Department determines assignments and promotions in a nondiscriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief of Police.

1004.3 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

- (a) Special Weapons and Tactics Team member
- (b) Investigator
- (c) Motorcycle officer
- (d) Bicycle Patrol officer
- (e) Canine handler
- (f) Collision investigator
- (g) Field Training Officer
- (h) Community Relations/Training Officer
- (i) School Resource and/or Drug Abuse Resistance Education (D.A.R.E.) officer
- (j) Court Officer
- (k) Administrative Services officer

1004.3.1 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

- (a) Three years of relevant experience
- (b) Off probation
- (c) Possession of or ability to obtain any certification required by the Department of Public Safety Standards and Training or law
- (d) Exceptional skills, experience, or abilities related to the special assignment

1004.3.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment

- (a) Presents a professional, neat appearance.
- (b) Maintains a physical condition that aids in his/her performance.

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- (c) Expresses an interest in the assignment.
- (d) Demonstrates the following traits:
 - 1. Emotional stability and maturity.
 - 2. Stress tolerance.
 - 3. Sound ethical judgment and decision-making.
 - 4. Personal integrity and ethical conduct.
 - 5. Leadership skills.
 - 6. Initiative.
 - 7. Adaptability and flexibility.
 - 8. Ability to conform to department goals and objectives in a positive manner.

1004.3.3 SELECTION PROCESS

The selection process for special assignments will include an administrative evaluation as determined by the Chief of Police to include, but not limited to any combination of their choosing:

- 1. Peer Evaluation
- 2. Oral Board
- 3. Specific skill testing
- 4. Assessment Center
- 5. Supervisor Review
- 6. Interview with the Chief

The selection process for all special assignment positions may be waived for temporary assignments, emergency situations, training, and at the discretion of the Chief of Police.

1004.4 PROMOTIONAL REQUIREMENTS

Requirements and information regarding any promotional process are available at the City of Milwaukie Department of Human Resources.

Grievance Procedure

1006.1 PURPOSE AND SCOPE

It is the policy of this department that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. This department's philosophy is to promote a free verbal communication between employees and supervisors.

1006.1.1 GRIEVANCE DEFINED

For the purposes of this procedure a grievance is any difference of opinion concerning terms or conditions of employment, or a dispute involving the interpretation, or application of any department policies or City rules and regulations covering personnel practices or working conditions, by the affected persons.

Grievances may be brought by an individually affected employee or by a group representative.

Specifically outside the category of grievances are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy federal, state, or local law, as set forth in the Personnel Complaints Policy.

1006.1.2 DUPLICATE PROCEDURES

The grievance procedures set forth in this policy shall not be used in addition to other grievance procedures as may be in effect through the governing jurisdiction or the eligible employee's collective bargaining agreement.

Under no circumstances shall more than one administrative process be used to redress the same grievance, although use of this or other procedures does not preclude employees from seeking legal remedies as appropriate.

1006.2 PROCEDURE

If an employee believes that he or she has a grievance as defined above, then that employee shall observe the following procedure:

- (a) Attempt to resolve the issue through informal discussion with immediate supervisor.
- (b) If after a reasonable amount of time, generally seven days, the grievance cannot be settled by the immediate supervisor, the employee may request an interview with the Captain of the affected division or division.
- (c) If a successful resolution is not found with the Captain, the employee may request a meeting with the Chief of Police.

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- (d) If the employee and the Chief of Police are unable to arrive at a mutual solution, then the employee shall proceed as follows:
 - 1. Submit in writing a written statement of the grievance and deliver one copy to the Chief of Police and another copy to the immediate supervisor and include the following information:
 - (a) The basis for the grievance (i.e., what are the facts of the case?)
 - (b) Allegation of the specific wrongful act and the harm done.
 - (c) The specific policies, rules or regulations believed to have been violated.
 - (d) What remedy or goal is sought by this grievance.
- (e) The employee shall receive a copy of the acknowledgment signed by the supervisor including the date and time of receipt.
- (f) The Chief of Police will receive the grievance in writing. The Chief of Police and the City Manager will review and analyze the facts or allegations and respond to the employee within 14 calendar days. The response will be in writing, and will affirm or deny the allegations. The response shall include any remedies if appropriate. The decision of the City Manager is considered final.

1006.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

1006.4 GRIEVANCE RECORDS

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to the Administrative Specialist for inclusion into a secure file for all written grievances. A second copy of the written grievance will be maintained by the City Manager's office to monitor the grievance process.

1006.5 ANNUAL REPORT OF GRIEVANCES

The Administration Captain will create a report to the Chief of Police no later than January 15 of every year that lists the grievances filed within the calendar year. The report will include the basis of the grievances, the findings of the grievances, and an analysis to determine trends or patterns of issues that could be remedied through training, policy modification, or correction of personnel performance.

The report should not contain any identifying information from any individual grievance. The Training Sergeant should promptly notify the Chief of Police if the report identifies any policy manual content that may warrant a critical revision.

Reporting of Employee Convictions

1010.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties; therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

1010.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

Oregon and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; ORS 107.095(5); ORS 166.270).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

ORS 166.270 carries specific prohibitions on the carrying of firearms or other weapons upon a felony conviction in the State of Oregon, any other state or under federal law.

ORS 107.095(5) addresses when a restraining order can lead to a violation of the firearms prohibitions of 18 USC § 922. Employees that are or have become subject to such an order shall promptly report that information to a supervisor.

1010.3 OTHER CRIMINAL CONVICTIONS

Oregon Administrative Rules 259-008-0010(4) prohibits any person convicted of a felony from being a peace officer in the State of Oregon. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendere plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust.

1010.4 REPORTING PROCEDURE

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired

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officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to being placed on administrative leave, reassignment and/or termination.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

1010.5 PROCEDURE FOR RELIEF

A peace officer may petition the court for permission to carry a firearm following a conviction under state law. However, federal law does not provide for any such similar judicial relief and the granting of a state court petition under Oregon Revised Statutes 166.274 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources (Oregon Revised Statutes 166.274).

An individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time (Oregon Revised Statutes 107.718).

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Milwaukie Police Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

1010.6 DEPARTMENT OF PUBLIC STANDARDS AND TRAINING (DPSST) NOTIFICATION

An officer or dispatcher who is arrested or who receives a criminal citation to appear, or its equivalent, shall notify DPSST in writing within five business days of the following (OAR 259-008-0010(5); OAR 259-008-0011(3)):

- (a) The date of the arrest or citation
- (b) The location of the arrest or citation
- (c) The reason for the arrest or citation
- (d) The arresting or citing agency

Alcohol and Drug Use Policy

1012.1 PURPOSE AND SCOPE

The intent of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any employee or member of the public. The Milwaukie Police Department discourages alcohol and drug abuse and strives to achieve a work force free from the influence of drugs and alcohol.

1012.2 GENERAL GUIDELINES

The consumption of alcohol or other intoxicants is generally prohibited by on-duty personnel except as necessary in the performance of an official special assignment. Personnel who consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Employees who have consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect their senses or judgment shall not report for duty.

1012.2.1 PURCHASE OR POSSESSION OF DRUGS OR ALCOHOL ON DUTY

Department employees shall not purchase or possess alcohol or other controlled substances on City property, at work, or while on duty except in the performance of a special assignment as described in Policy Manual § 1012.2.

Department employees shall not illegally manufacture any alcohol or drugs while on duty, on City property or at any other time.

1012.2.2 USE OF PRESCRIBED MEDICATIONS

Any employee who is required to take any medication with side effects which might impair his/her ability to fully and safely perform all requirements of their position, shall report the need for such medication to their immediate supervisor prior to commencing any on-duty status. No employee shall be permitted to work or drive a department-owned or leased vehicle while taking such potentially impairing medication without a written release from his/her physician.

Use of marijuana, including medical marijuana, on or off-duty, is prohibited and may lead to disciplinary action.

1012.3 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist employees who wish to seek help for alcohol and drug problems. There is also available a variety of insurance coverage which provide treatment for drug and alcohol abuse. Employees may contact the Department of Human Resources, their insurance provider, or the Employee Assistance Program for additional information.

Employees who experience drug or alcohol problems are encouraged to seek referral for rehabilitation through the Employee Assistance Programs or their insurance provider. It is the

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responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

1012.3.2 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due employees, and disclosure of any information relating to chemical abuse treatment, except on a need to know basis, shall only be with the expressed written consent of the employee involved or pursuant to lawful process.

1012.4 COMPLIANCE

Employees must, as a condition of employment, abide by the terms of this policy, and report any conviction under a criminal drug statute for violations occurring on or off City premises while conducting City business. A report of a conviction must be made as soon as possible, but in no case more than five days after the conviction.

Sick Leave Reporting

1014.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement (ORS 653.606; ORS 653.611).

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA), the Oregon Family Leave Act or leave related to protections because of domestic violence, harassment, sexual assault or stalking (29 USC § 2601 et seq.; ORS 659A.150 et seq.; ORS 659A.270 et seq.).

1014.2 POLICY

It is the policy of the Milwaukie Police Department to provide eligible employees with a sick-leave benefit that provides time off for personal or family illness.

1014.3 USE OF SICK LEAVE

Sick leave is intended to be used for absences caused by mental or physical illness, injury, health conditions or temporary disability (including pregnancy/maternity), or for medical, dental or vision exams or medical treatment of the employee or the employee's immediate family when it is not reasonable to schedule such appointments during non-working hours (ORS 653.616; OAR 839-007-0020).

Members who do not have compensated leave benefits may be eligible for unpaid leave.

Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick-leave benefits, or both. Employees on sick leave shall not engage in other employment or self-employment, or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness.

1014.3.1 NOTIFICATION

All members should notify the Patrol Sergeant or appropriate supervisor as soon as they are aware that they will not be able to report to work. At a minimum, members shall make such notification no less than one hour before the start of their scheduled shifts or as soon as practicable when there are extenuating circumstances. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (ORS 653.621; OAR 839-007-0040).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible, provide the Department with no less than 10 days' notice of the impending absence. The member shall make a reasonable attempt to schedule the use of sick time so that it does not disrupt the operations of the Department (ORS 653.621; OAR 839-007-0040).

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Sick Leave Reporting

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

1014.4 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences are consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Human Resource Director as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
 - 1. Negatively affected the member's performance or ability to complete assigned duties.
 - 2. Negatively affected department operations.
- (d) When appropriate, counseling members regarding excessive absences and/or use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

1014.5 EXTENDED ABSENCE

Members absent from duty in excess of three consecutive days may be required to furnish a statement from their health care provider supporting the need to be absent and/or the ability to return to work (ORS 653.626; OAR 839-007-0045).

Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days (ORS 653.626; OAR 839-007-0045).

1014.6 REQUIRED NOTICES

The Human Resource Director shall ensure that each employee is provided written notice of the following (ORS 653.631; OAR 839-007-0050):

- (a) Accrued and unused sick time available at least quarterly.
- (b) The sick leave provisions of the Oregon sick leave law as provided in ORS 653.601 et seq.

Communicable Diseases

1016.1 PURPOSE AND SCOPE

This policy is intended to provide guidelines for department personnel to assist in minimizing the risk of contracting and/or spreading communicable diseases and to minimize the incidence of illness and injury. The policy will offer direction in achieving the following goals:

- To reduce exposures to bloodborne pathogens (BBP) and other potentially infectious body fluids.
- To assist Department personnel in making decisions concerning the selection, use, maintenance, limitations, storage and disposal of personal protective equipment (PPE).
- To protect the privacy rights of all Department personnel who may be exposed to or contract a communicable disease during the course of their duties.
- To provide appropriate treatment and counseling should an employee be exposed to a communicable disease.

1016.2 PROCEDURES FOR CONTACT WITH BLOOD OR BODY FLUIDS

All department personnel who may be involved in providing emergency medical care, or who come in contact with another person's blood or body fluids (e.g., during an altercation or while attending to any injured person), shall follow these procedures and guidelines.

1016.2.1 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the department's Exposure Control Officer (ECO). The ECO shall be responsible for the following:

- (a) The overall management of the bloodborne pathogen Exposure Control Plan (ECP) to include the applicable duties, responsibilities and/or safeguards required by 29 CFR 1910.1030 and OAR 437-002-0360.
- (b) Establishing written procedures and developing a training program related to aerosol-transmissible diseases.
- (c) Working with management to develop and administer any additional related policies and practices necessary to support the effective implementation of this plan and remain current on all legal requirements concerning bloodborne pathogens and other communicable diseases.
- (d) Acting as a liaison during OSHA inspections and conducting program audits to maintain a current ECP.
- (e) Maintaining an up-to-date list of police personnel requiring training, developing and implementing a training program, maintaining class rosters and quizzes, and periodically reviewing the training program.

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- (f) Reviewing and updating the ECP annually (on or before January 1 of each year).

Department supervisors are responsible for exposure control in their respective areas. They shall work directly with the ECO and the affected employees to ensure that the proper exposure control procedures are followed.

1016.2.2 UNIVERSAL PRECAUTIONS

All human blood and body fluids such as saliva, urine, semen, and vaginal secretions are to be treated as if they are known to be infectious. Where it is not possible to distinguish between body fluid types, all body fluids are to be assumed potentially infectious.

1016.2.3 PERSONAL PROTECTIVE EQUIPMENT

Personal protective equipment is the last line of defense against communicable disease. Therefore, the following equipment is provided for all personnel to assist in the protection against such exposures:

- Not less than two pair disposable latex gloves (Keeping a box in the car recommended)
- Safety glasses or goggles.
- Rescue mask with a one-way valve.
- Alcohol (or similar substance) to flush skin at emergency site. (Keeping several alcohol hand wipes in the car recommend).

The protective equipment is to be kept in each police vehicle; inspected at the start of each shift and replaced immediately upon returning to the station if used or damaged during the shift, or as otherwise needed.

1016.2.4 IMMUNIZATIONS

All department personnel who, in the line of duty, may be exposed to or have contact with a communicable disease shall be offered immunization, if a vaccine for the specific disease exposure is available and medically appropriate. Such preventive immunization shall be offered at no cost to the employee (ORS 433.407 and ORS 433.416).

Coordination and approval of immunizations under this policy shall be the responsibility of the Exposure Control Officer or his/her designee.

1016.2.5 WORK PRACTICES

All personnel shall use the appropriate barrier precautions to prevent skin and mucous membrane exposure whenever contact with blood or body fluid is anticipated.

Disposable gloves shall be worn on all medical emergency responses. Disposable gloves shall be worn before making physical contact with any patient and/or when handling items (e.g., evidence, transportation vehicle) soiled with blood or other body fluids. Should one's disposable gloves become contaminated with blood or other body fluids, the gloves shall be disposed of as contaminated waste. Care should be taken to avoid touching other items (e.g., pens, books,

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and personal items in general) while wearing the disposable gloves in a potentially contaminated environment.

All procedures involving blood or other potentially infectious materials shall be done in a way to minimize splashing, spraying, or otherwise generating droplets of those materials.

Eating, drinking, smoking, applying lip balm, and handling contact lenses shall be prohibited in areas where a potential for an exposure exists.

1016.3 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them.
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
 1. Complying with the Oregon Safe Employment Act (ORS 654.001 et seq.).
 2. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
 3. Exposure control mandates in 29 CFR 1910.1030 including bloodborne pathogen precautions (OAR 437-002-0360).

The ECO should also act as the liaison with the Oregon Occupational Safety and Health Division (OR-OSHA) and may request voluntary compliance inspections. The ECO should annually review and update the exposure control plan and review implementation of the plan.

1016.3.1 USE OF WASTE CONTAINERS

Officers shall dispose of biohazard with the on-scene fire response vehicle, or at the attending clinic/hospital with their approval, or in an appropriately marked biohazard waste container at the station immediately upon arrival.

The biohazard waste container located at the station shall be collapsible, leak-proof, red in color or appropriately labeled with a biohazard warning and routinely emptied.

1016.3.2 DECONTAMINATION OF SKIN AND MUCOUS MEMBRANES

Personnel shall wash their hands immediately (on-scene if possible), or as soon as possible following the removal of potentially contaminated gloves. Antibacterial soap and warm water or

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an approved disinfectant shall be used to wash one's hands, paying particular attention to the fingernails.

If an employee's intact skin contacts someone else's blood or bodily fluids or other potentially infectious materials, the employee shall immediately wash the exposed part of his/her body with soap and warm water and/or an approved disinfectant, as soon as possible. If the skin becomes grossly contaminated, body washing shall be followed by an approved hospital strength disinfectant. If large areas of the employee's skin are contaminated, the employee shall shower as soon as possible, using warm water and soap and/or an approved disinfectant. Medical treatment should be obtained.

Contaminated nonintact skin (e.g., injured skin, open wound) shall be cleaned using an approved disinfectant and then dressed or bandaged as required. Medical treatment is required.

All hand, skin, and mucous membrane washing that takes place in the station shall be done in the designated cleaning or decontamination area. Cleaning shall not be done in the kitchen, bathrooms, or other locations not designated as the cleaning or decontamination area.

1016.3.3 SHARPS AND ITEMS THAT CUT OR PUNCTURE

All personnel shall avoid using or holding sharps (needles) unless needed to do so while assisting a paramedic, or collecting them for evidence. Unless required for evidentiary reasons related to evidence preservation, employees are not to recap sharps. If recapping is necessary, a one-handed method shall be employed to avoid a finger prick. Disposal, when practicable, shall be into a puncture proof biohazard container.

All sharps and items that cut or puncture (e.g., broken glass, razors, and knives) shall be treated cautiously to avoid cutting, stabbing, or puncturing one's self or any other person. In addition, if a sharp object contains known or suspected blood or other bodily fluids, that item is to be treated as a contaminated item. If the item is not evidence, touching it with the hands shall be avoided. Rather, use a device such as tongs, or a broom and a dustpan to cleanup debris. If the material must be hand held, protective gloves must be worn.

1016.3.4 DISPOSABLE PROTECTIVE EQUIPMENT

Contaminated disposable supplies (gloves, dressings, CPR mask) shall be transported with the patient or suspect in the ambulance or police vehicle. The waste material shall then be disposed of in a biohazard waste container at the hospital or police station. Disposable gloves are to be worn while placing the waste into the waste biohazard container, placing the gloves in with the waste when through.

1016.3.5 DECONTAMINATION OF PERSONAL PROTECTIVE EQUIPMENT

After using any reusable personal protective equipment, it shall be washed or disinfected and stored appropriately. If the personal protective equipment is non-reusable (e.g., disposable gloves), it shall be discarded in a biohazard waste container as described in Policy Manual § 1016.3.4.

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Any personal protective equipment that becomes punctured, torn, or loses its integrity, shall be removed as soon as feasible. The employee shall wash up and replace the personal protective equipment if the job has not been terminated. If this situation resulted in a contaminated nonintact skin event, Policy Manual § 1016.3.2 shall be implemented.

Contaminated reusable personal protective equipment that must be transported prior to cleaning it shall be placed into a biohazard waste bag and transported in the ambulance, paramedic truck or police vehicle. Gloves shall be worn while handling the biohazard waste bag and during placement into the biohazard waste container, and then included in with the waste.

1016.3.6 DECONTAMINATION OF NON-DISPOSABLE EQUIPMENT

Contaminated non-disposable equipment (e.g., flashlight, gun, baton, clothing, portable radio) shall be decontaminated as soon as reasonably practicable. If it is to be transported, it shall be done by first placing it into a biohazard waste bag.

Grossly contaminated non-disposable equipment items shall be transported to a hospital, fire station, or police station for proper cleaning and disinfecting. Porous surfaces such as nylon bags and straps shall be brushed and scrubbed with a detergent and hot water, laundered and allowed to dry. Non-porous surfaces (e.g., plastic or metal) shall be brushed and scrubbed with detergent and hot water, sprayed with a bleach solution, rinsed, and allowed to dry. Delicate equipment (e.g., radios) should be brushed and scrubbed very carefully using a minimal amount of a type of germicide that is approved by Environmental Protection Agency (EPA) .

While cleaning equipment, pay close attention to handles, controls, portable radios, and corners (tight spots). Equipment cleaning shall not be done in the kitchen, bathrooms, or other areas not designated as the cleaning/decontamination area.

Contaminated equipment should be cleaned using an approved EPA germicide or a 1:100 solution of chlorine bleach (one-quarter-cup of bleach per one gallon of water) while wearing disposable gloves and goggles. Large particles of contaminants such as, vomit, feces, blood clots, etc. should first be removed (using a disposable towel or other means to prevent direct contact) and properly disposed of.

1016.3.7 DECONTAMINATION OF CLOTHING

Contaminated clothing such as uniforms and undergarments shall be removed as soon as feasible and rinsed in cold water to prevent the setting of bloodstains. If the clothing may be washed in soap and hot water, do so as soon as possible. If the clothing must be dry cleaned, place it into a biohazard waste bag and give it to the Exposure Control Officer. The ECO will secure a dry cleaner that is capable of cleaning contaminated clothing, and inform them of the potential contamination. This dry cleaning will be done at the Department's expense.

Contaminated leather boots shall be brushed and scrubbed with detergent and hot water. If the contaminant soaked through the boot, the boot shall be discarded.

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1016.3.8 DECONTAMINATION OF VEHICLES

Contaminated vehicles and components such as the seats, radios, and doors shall be washed with soap and warm water and disinfected with an approved germicide as soon as feasible.

1016.3.9 DECONTAMINATION OF STATION AND CLEANING AREA

The ECO shall designate a location at the station that will serve as the area for cleaning/decontamination. This area is to be used to keep equipment clean and sanitary and for the employees to wash any potential contamination from their bodies. This area is to be thoroughly cleaned after each use and to be maintained in a clean and sanitary order at all times between each use. The application of cosmetics, smoking cigarettes and consuming food and drink are prohibited in this designated area at all times.

1016.4 POST-EXPOSURE REPORTING AND FOLLOW-UP REQUIREMENTS

In actual or suspected exposure incidents, proper documentation and follow-up action must occur to limit potential liabilities and ensure the best protection and care for the employee(s).

1016.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (29 CFR 1910.1030; OAR 437-002-0360):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
 1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.

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- (i) Avoiding eating, drinking or smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1016.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (29 CFR 1910.1030; OAR 437-002-0360).

Other preventive, no-cost immunizations shall be provided to members who are at risk of contracting a communicable disease if such preventive immunization is available and is medically appropriate. A member shall not be required to be immunized unless such immunization is otherwise required by federal or state law, rule or regulation (ORS 433.416).

1016.4.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Any employee who received exposure or suspected exposure should be seen by a physician (or qualified health care provider) as soon as possible. The doctor (or qualified health care provider) should review the supervisor's report, the Communicable Disease Notification Report and the employee's medical records relevant to the visit and examination.

When an officer in the performance of his/her official duties sustains a substantial BBP exposure, the ECO will seek to have the source person tested for HIV and Hepatitis B or C by causing the circuit court to be petitioned for an order compelling the testing. The petition must set forth the facts and circumstances of the contact and the reasons the officer and a medically trained person representing the officer, if available, believe the exposure was substantial and the testing would be appropriate. The officer should provide information sufficient to identify and locate, if possible, the alleged source (ORS 433.085(1)(2)).

If the ECO is unavailable to assist the officer with the completion of the petition and with follow-up attempts to seek testing of the person who was the source of the exposure, it is the responsibility of the exposed employee's supervisor to provide such assistance.

If the testing is ordered by the court, the results shall be made available to those persons authorized under ORS 433.045(4) and to the officer, the physician designated by the officer to receive the results, the Oregon Health Authority (OHA), the subject person and any physician designated by the subject person to receive the results (ORS 433.085(4)).

The health care professional should provide the ECO and/or the City's Risk Manager with a written opinion/evaluation of the exposed employee's situation. This opinion should only contain the following information:

- If an HBV is indicated for the employee.
- If the employee received an HBV.
- Confirmation that the employee received the evaluation results.

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- Confirmation that the employee was informed of any medical condition resulting from the exposure incident that will require further treatment or evaluation.
- Whether communicable disease testing of the person who was the source of the exposure is warranted, and, if so, what diseases should be included in testing.

All other findings or diagnosis shall remain confidential and are not to be included in the written report.

1016.4.4 COUNSELING

The Department will make counseling and consultation available to the exposed employee (and his/her family if necessary).

1016.4.5 CONFIDENTIALITY OF REPORTS

Most of the information involved in the process must remain confidential. The ECO shall ensure that all records and reports are kept in the strictest confidence.

The ECO shall be responsible for maintaining records containing the employee's HBV status and the results of examinations, medical testing and follow-up procedures that took place as a result of an exposure.

The Risk Manager shall be responsible for maintaining the name and social security number of the employee and copies of any information provided to the consulting health care professional as a result of an exposure.

This information is confidential and shall not be disclosed to anyone without the employee's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

1016.5 POST-EXPOSURE CONFIRMATION PROCEDURES

Members who have been exposed to or contract a disease as a result of a duty-related event shall be treated according to existing health benefits, insurance coverage, and collective bargaining provisions. (OAR 839-006-0200 and ORS 659A.112).

Members who test positive for HIV or HBV may continue working as long as they maintain acceptable performance and do not pose a safety and health threat to themselves, the public or other members of the Department.

- (a) The Milwaukie Police Department shall make all decisions concerning the member's work status solely on the medical opinions and advice of the agency's health care officials.
- (b) The Milwaukie Police Department may require a member to be examined by the department health care officials to determine if he/she is able to perform his/her duties without hazard to him/herself or others.
- (c) All members of the Milwaukie Police Department agency shall treat employees who have contracted a communicable disease fairly, courteously and with dignity.

Smoking Policy

1018.1 PURPOSE AND SCOPE

The Surgeon General has determined that second-hand smoke is hazardous to health. Tobacco products may also be offensive to employees and the public.

1018.2 POLICY

Although the City does not base employment decisions on the fact that an applicant or employee may smoke while off-duty, smoking and other use of tobacco products is not permitted inside department facilities or any department vehicle. It shall also be the responsibility of all employees to ensure that no person smokes or uses any tobacco product inside department facilities and vehicles.

Employees in uniform are also prohibited from smoking or using tobacco products while in public view.

Personnel Complaints

1020.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Milwaukie Police Department. This policy will not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other member, nor will this policy apply to a criminal investigation. For employees represented by a collective bargaining agreement, the CBA is controlling and this policy augments the CBA as negotiated. At the discretion of the City, this policy also applies to complaints received about any volunteer assisting in department functions. The City acknowledges Weingarten rights when questioning an employee for the purposes of potential discipline.

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1020.1.1 DEFINITIONS

Disciplinary action - An action taken against an employee by the Milwaukie Police Department to punish the employee, including dismissal, demotion, suspension without pay, reduction in salary, written reprimand and transfer (ORS 236.350 (1)).

Employee - Any paid member of the Milwaukie Police Department with a property interest in his/her employment at the Milwaukie Police Department.

Just cause - A cause reasonably related to the employee's ability to perform required work. The term includes a willful violation of reasonable work rules, regulations or written policies (ORS 236.350 (2)).

Personnel complaint - Any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

This policy does not apply when a supervisor questions an employee in the normal course of an informal verbal admonishment or when the supervisor has other routine or unplanned contact with an employee. Nor does this policy apply to an investigation concerned solely with alleged criminal activities.

1020.1.2 CLASSIFYING PERSONNEL COMPLAINTS

Personnel complaints shall be classified in one of the following categories:

Personnel Complaints will be classified in one of the following categories:

Complaint Inquiry: a matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee without the need for further investigation. Informal complaints and resolution

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will be logged separately from formal complaints in accordance with practice and policy as directed by the City. The responsible supervisor will have the discretion to handle the complaint in any manner consistent with this policy. Management will review the informal complaint logs on a regular basis, and the City reserves the right to reopen any complaint based on newly discovered information and review of the conduct.

Formal Personnel Complaint: a matter in which the complaining party seeks investigation and when a department supervisor determines that further action is warranted. The City must initiate formal complaints internally when staff becomes aware of violations of policy or possible violations of policy, which generally undermine the standards established by the City or the police department. Such complaints may be investigated by a department supervisor of rank greater than the accused employee. Such complaints can be initiated with an Officer, Sergeant, Captain, Chief, Human Resources Director or City Manager, depending on the seriousness of the complaint and complexity of the investigation. Management will review all formal complaints prior to resolution.

Incomplete: a matter in which the complaining party either refuses or fails to cooperate or becomes unavailable after thorough attempts at follow-up investigation. It will be the decision of a Captain or the Chief when to close an investigation with an incomplete status, which may be later reopened based on new information. All incomplete complaints received will be logged in accordance with practice and policy.

1020.2 POLICY

The Milwaukie Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1020.2.1 AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public lobby. Forms may also be available at other government facilities.

1020.2.2 SOURCE OF COMPLAINTS

- (a) An employee receiving a complaint from any source alleging misconduct of an employee or volunteer should immediately document that complaint consistent with section 1020.5 and submit it to their immediate supervisor up to the Captain. The ability to fully review a complaint requires various levels of investigation and fact finding. Complainants are encouraged to fully participate in the investigatory process. Unwillingness of a complainant to participate in an investigation hampers the ability for the City to investigate and sustain allegations of misconduct. Participation includes

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the ability to maintain continued communication with the agency to provide information as needed.

Complaints against a Captain or the Chief of Police will be forwarded to the City Manager, or designee.

- (a) A department employee who becomes aware of alleged misconduct of another Department member will immediately notify a supervisor. Employees are responsible to adhere to the duty to intervene as provided by Oregon statute ORS 181A.355-670

1020.2.3 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, or by telephoning the Department. Although it is not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint

- (a) Complaints will not be prepared unless the alleged misconduct or job performance is of a nature which, if true, could constitute a violation of department policy or of federal, state or local law, policy, rule or job expectation.
- (a) When the complainant is intoxicated to the point where their credibility appears to be unreliable. Identifying information should be obtained and the person should be provided with a personnel complaint form.
- (a) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with the juvenile's parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

1020.2.4 FORMAL COMPLAINT DOCUMENTATION

Formal complaints of alleged misconduct will be documented by a supervisor on a personnel complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

A supervisor will document informal complaints as a supervisor or Patrol Sergeant log entry.

When a personnel complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the receiving supervisor should document the complaint based upon information received from the complainant. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. However, a refusal by a party to be recorded will not be grounds to refuse to accept a complaint. In all cases, the complainant's signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his/her original complaint.

1020.3 PERSONNEL COMPLAINTS

Personnel complaints are generally received by the public and include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Complaints received internally will be evaluated

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by management staff, or designee, and determined if they arise to the level of a personnel complaint.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and will not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department. Such inquiries will be logged consistent with practice and policy as directed by the City.

This policy does not apply when a supervisor questions an employee in the normal course of their duties, during an informal verbal admonishment or when the supervisor has other routine or unplanned contact with an employee. Nor does this policy apply to an investigation concerned solely with alleged criminal activities.

1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature or when the circumstances reasonably dictate an undue risk for the Department, the employee, other employees or the public, a supervisor may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

1020.4.1 ADMINISTRATIVE LEAVE

An employee placed on administrative leave may be subject to the following guidelines:

- (a) The employee shall continue to receive regular pay and benefits, pending the imposition of any discipline.
- (b) An employee may be required by a supervisor to relinquish any badge, department identification, assigned weapon(s) and any other department equipment.
- (c) An employee may be ordered to refrain from taking any action as a department employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (d) An employee may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation. The employee may be required to remain available for contact at all times during such shift and report as ordered.
- (e) It shall be the responsibility of the assigning supervisor to promptly notify the employee's Captain and the Chief of Police.
- (f) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to his/her regularly assigned shift with all badges, identification card and other equipment returned.

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1020.5 DOCUMENTATION

Supervisors will ensure that all formal and informal complaints are documented on a complaint form. The supervisor will ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log will include the nature of the complaint and the actions taken to address the complaint. When contact information is available, all complainants should receive an update or information about the investigations completion within 60 days of the complaint being filed. On an annual basis, the Administrative Captain will audit and submit a written audit report to the Chief of Police. The Chief of Police will provide a summary report to the City Manager and/or Human Resources Director. (See annual review below)

1020.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1020.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
- (b) The original complaint form will be directed to the Patrol Sergeant of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
- (c) In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Captain or the Chief of Police, who will initiate appropriate action.
- (d) Responding to all complainants in a courteous and professional manner.
- (e) Resolving those personnel complaints that can be resolved immediately.
- (f) Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint, on a case by case basis.
- (g) If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Patrol Sergeant.

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- (h) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Patrol Sergeant and Chief of Police are notified via the chain of command as soon as practicable.
- (i) Promptly contacting the Department of Human Resources and the appropriate Division Captain for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (j) Forwarding unresolved personnel complaints to the Patrol Sergeant, who will determine whether to contact the complainant or assign the complaint for investigation.
- (k) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (l) Investigating a complaint as follows:
- (m) Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
- (n) When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (o) Ensuring that the procedural rights of the accused member are followed.
- (p) Ensuring interviews of the complainant are generally conducted during reasonable hours.
- (q) Providing the complainant with periodic updates on the status of the investigation, as appropriate.

1020.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Professional Standards Unit, the following applies to public safety officers covered by the provisions of ORS 236.350 through ORS 236.360 (ORS 236.370).

- (a) Interviews of an accused public safety officer shall be conducted during reasonable (normal waking) hours and preferably when the public safety officer is on-duty, unless the seriousness of the investigation requires otherwise. If the public safety officer is off-duty, the public safety officer shall be compensated.
- (b) Unless waived by the public safety officer, interviews of an accused public safety officer shall be at the Milwaukie Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused public safety officer.
- (d) The interviewers shall inform the public safety officer of their authority to compel a statement and of the identity of the investigators and all persons present during the interview.
- (e) Prior to any interview, a public safety officer should be informed of the nature of the investigation and of facts reasonably sufficient to inform the public safety officer of the circumstances surrounding the allegations under investigation.

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- (f) All interviews should be for a reasonable period and the public safety officer's personal needs should be accommodated.
- (g) No public safety officer should be subjected to offensive or threatening language, nor shall any promises, rewards, or other inducements be used to obtain answers.
- (h) Any public safety officer refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. A public safety officer should be given an order to answer questions in an administrative investigation that might incriminate the public safety officer in a criminal matter only after the public safety officer has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the public safety officer may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 - 2. No information or evidence administratively coerced from a public safety officer may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (i) The interviewer should record the interview and the public safety officer may also record the interview. If the public safety officer has been previously interviewed, a copy of that recorded interview, and upon request any existing transcripts of the interview or reports describing the interview, shall be provided to the public safety officer prior to any subsequent interview.
- (j) All public safety officers subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, to maintain the integrity of each individual's statement, involved public safety officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (k) In a disciplinary or administrative investigation, the public safety officer's chosen representative cannot be required to disclose, or be subject to disciplinary action for refusing to disclose, statements made by the public safety officer to the representative for purposes of the representation.
- (l) As soon as it is determined that the public safety officer may be charged with a criminal offense, the public safety officer shall be informed of the public safety officer's right to consult with criminal defense counsel with respect to the criminal charge.
- (m) All public safety officers shall provide complete and truthful responses to questions posed during interviews.
- (n) No public safety officer may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.

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1020.6.3 STEPS PRIOR TO DISCIPLINARY ACTION

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

Disciplinary action may not be taken against any employee without just cause (ORS 236.360 (4)). The Chief of Police shall ensure the following before any disciplinary action against an employee is taken:

- (a) Notification is made to the employee in writing of the charges against the employee and the proposed disciplinary action (ORS 236.360 (5)(a)).
- (b) The employee is given an opportunity to respond to the charges at an informal hearing, which may be recorded, that is attended by the person or persons having authority to impose the proposed disciplinary action (ORS 236.360 (5)(b)).

1020.6.4 DISPOSITIONS

Each personnel complaint will be classified with one of the following dispositions:

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper, or that the alleged facts did not occur or did not involve department members.

Not sustained with explanation - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator will take appropriate action consistent with policy and the collective bargaining agreement with regard to any additional allegations.

1020.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1020.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.

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- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1020.8.1 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel, except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation, and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations.

Disciplinary action resulting from sustained complaints shall be maintained in the employee's personnel file. Complaints, and any investigative reports shall be maintained by the Professional Standards Unit apart from the employee's personnel file.

1020.8.2 ANNUAL REVIEW OF PERSONNEL COMPLAINTS

During February of each year, the Captain or his/her designee shall provide to the Chief of Police an annual report of personnel complaints from the preceding year. The report will focus on complaint trends as well as training needs and needed policy changes. A copy of the report shall be maintained with each year's completed complaint file. Specific detail, including items such as officer names, case numbers and location of occurrence, is not needed for this purpose and therefore will not be part of this process.

1020.9 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING COMPLAINTS

Complaints received from the Department of Public Safety Standards and Training (DPSST) that involve officers or dispatchers will be investigated as outlined in this policy. The Chief of Police or the authorized designee is responsible for notifying DPSST of the disposition of the complaint (OAR 259-008-0400).

1020.10 NOTIFICATION TO THE DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

The Chief of Police or the authorized designee should ensure DPSST is notified as follows:

- (a) When an investigation of misconduct under ORS 181A.681 results in a sustained finding (ORS 181A.683).
- (b) Within 10 days of a final discipline that includes an economic sanction with the following information (ORS 181A.686):
 1. The name and rank of the officer disciplined.
 2. The name of the Milwaukie Police Department.

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3. A copy of any final decision including the underlying facts and the imposed discipline.

Seat Belts

1022.1 PURPOSE AND SCOPE

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to assure maximum operator and passenger safety, thus minimizing the possibility of death or injury as the result of a motor vehicle crash. This policy will apply to all employees operating or riding in department vehicles.

1022.2 WEARING OF SAFETY RESTRAINTS

All employees shall wear properly adjusted safety restraints when operating or riding in department-owned, leased or rented vehicles and while operating or riding in privately owned vehicles while on duty. The driver is responsible for ensuring all occupants, including non-employees, are in compliance with this policy.

It is the intent of this policy that all employees wear seat belts whenever possible. However, sworn officers may dispense with wearing safety restraints, when not on a highway (as defined in [Oregon Revised Statutes 801.305](#)), in specific tactical situations or when it reasonably appears that, due to unusual circumstances, wearing a seatbelt would hinder rather than increase safety.

1022.2.1 TRANSPORTING CHILDREN

An approved child safety restraint system should be used for all children of age, size or weight for which such restraints are required by law ([Oregon Revised Statutes 811.210](#)). In the event that an appropriate approved child safety restraint system is not available the child may be transported by sworn personnel and should be restrained in a seat belt ([Oregon Revised Statutes 811.210](#)).

Rear-seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, children and the child restraint system or booster seat should be secured properly in the front seat of these vehicles, provided this positioning meets the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the passenger side airbag should be deactivated. In the event this is not possible, officers should consider arranging for alternative transportation.

1022.3 TRANSPORTING PRISONERS

Whenever possible, prisoners should be secured in the prisoner restraint system in the rear seat of the patrol vehicle or, when a prisoner restraint system is not available, by seat belts. The prisoner should be in a seating position for which seat belts have been provided by the vehicle manufacturer. In unusual circumstances where it is unsafe or impractical to do so, prisoners may be transported without the use of seat belts (ORS 811.215 (6)). The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

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1022.4 INOPERABLE SEAT BELTS

No person shall operate a department vehicle in which the seat belt in the driver's position is inoperable. No person shall be transported in a seating position in which the seat belt is inoperable.

No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts, except for vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Employees who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

Body Armor

1024.1 PURPOSE AND SCOPE

Practical safety measures should be used to reduce the risks and hazards associated with police work. The Department provides soft body armor for personnel in an effort to improve safety.

1024.2 POLICY

It is the policy of the Milwaukie Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1024.3 ISSUANCE OF BODY ARMOR

The Administration Captain supervisor shall ensure that body armor is issued to all officers when the officer begins service at the Milwaukie Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administration Captain supervisor shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1024.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

- (a) Officers shall only wear agency-approved body armor.
- (b) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (d) Body armor shall be worn when an officer is working in uniform or taking part in Department range training.
- (e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

1024.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness and signs of damage, abuse and wear.

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1024.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

Personnel Records

1026.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1026.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of Oregon (ORS 181A.830; ORS 192.355; ORS 652.750).

1026.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently maintained.
- (e) Discipline records, including copies of sustained personnel complaints.
- (f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment.
 - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (ORS 652.750).
 - 2. Any member response shall be attached to and retained with the original adverse comment.
 - 3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment (ORS 652.750). Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file.
- (g) Commendations and awards.
- (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

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1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES

Certain information contained in personnel records is confidential and shall not be subject to disclosure except as provided by Policy Manual § 810, the provisions of the Oregon Public Records Law, or pursuant to lawful process (Oregon Revised Statutes 181.854).

1026.5 REQUESTS FOR DISCLOSURE

No requests for the disclosure of any information contained in any personnel record shall be considered received unless it is in written form. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the Patrol Sergeant, the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made (Oregon Revised Statutes 181.854).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner and consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

1026.5.1 RELEASE OF CONFIDENTIAL INFORMATION

Except as provided by Policy Manual 810 or pursuant to lawful process, no information contained in any peace officer personnel file shall be disclosed to any unauthorized employee or other person(s) without the expressed prior written consent of the involved officer (Oregon Revised Statutes 181.854(4)).

If an investigation of a public safety employee of this department results from a complaint, the Department may disclose to the complainant the disposition of the complaint and if necessary provide a written summary of the information obtained in the investigation (Oregon Revised Statutes 181.854(5)).

1026.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Professional Standards Unit in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Professional Standards Unit supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the member's department file but will be maintained in the internal affairs file:

- Not sustained
- Unfounded
- Exonerated

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1026.7 MEDICAL FILE

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or material that reveals the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.
- (f) Drug testing records.

Medical records relating to hazard exposure shall be retained for 30 years after separation and in accordance with the department established records retention schedule (29 CFR 1910.1020(d)).

1026.7.1 DEPARTMENT FILE

The Department file should contain, but is not limited to, the following:

- (a) Performance evaluation reports regularly completed by appropriate supervisor(s) and signed by the affected employee shall be permanently maintained.
- (b) Documents related to disciplinary action:
 - 1. Disciplinary action resulting from sustained complaints or observation of misconduct shall be maintained in the individual employee's Department file at least three (3) years. If the disciplinary action results in an employee's termination from this agency, the record of that action will be maintained for ten years after the separation in accordance with Oregon Administrative Rules 166-200-0090(6) and OAR 166-150-0160(6).
 - 2. Investigative files relating to complaints or discipline shall not be placed in the employee's Department file, but will be separately maintained for the appropriate retention period in the Internal Affairs File.
- (c) All documents related to employee performance, once the employee has had the opportunity to read and initial the document.
 - 1. No employee may place an adverse comment in the personnel records of an employee unless the employee has first read and signed the document containing the adverse comment. If an employee refuses to sign a document containing an adverse comment, the employer may place the document in the

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employee's personnel records with a notation that the document was presented to the employee and the employee refused to sign it ORS 652.750 (6).

2. An employee may write a response within 30 days of being presented with a document containing an adverse comment. If an employee writes a response to a document containing an adverse comment, the Administration Captain Supervisor must ensure that the response is attached to the original document and placed in the employee's personnel records (ORS 652.750 (6)).
- (d) Employee Personnel Records not related to discipline shall be retained for six years after separation (Oregon Administrative Rules 166-150-0160(7)).
 - (e) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee(s).
 - (f) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status.
 - (g) A photograph of the employee.

1026.7.2 DIVISION FILE

The Division File should contain, but is not limited to, the following:

- (a) Supervisor log entries, notices to correct and other materials intended to serve as a foundation for the completion of timely Performance Evaluations.
 1. All materials intended for this interim file shall be provided to the employee prior to being placed in the file.
 2. Once the permanent performance evaluation form has been made final, the underlying foundational material(s) and/or duplicate copies may be purged in accordance with this policy.
- (b) Duplicate copies of items that will also be included in the employee's department file may be placed in this interim file in anticipation of completing any upcoming performance evaluation.

All rules of confidentiality and disclosure shall apply equally to the division file.

1026.7.3 INTERNAL AFFAIRS FILE

The internal affairs file shall be maintained under the exclusive control of the Professional Standards Unit in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the supervisor of the Professional Standards Unit. These files shall contain:

- (a) The complete investigation of all formal complaints of employee misconduct regardless of disposition.

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1. Each investigation file shall be sequentially numbered within a calendar year (e.g. yy-001, yy-002, etc.) with an alphabetically arranged index card cross-referenced for each involved employee.
2. Each investigation file arising out of a formal citizen's complaint or involving discriminatory harassment/hostile work environment shall be maintained no less than five years. Investigation files arising out of other internally generated complaints shall be according to the current retention schedule requirements in OAR 166-200-0090(6) and OAR 166-150-0160(6).
 - (b) Investigations which result in other than a "sustained" finding shall be maintained for the minimum statutory period, but may not be used by the Department to adversely affect an employee's career.

1026.7.4 TRAINING FILES

Training files will contain records of all training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education.

- (a) It shall be the responsibility of the involved employee to provide the training officer or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The training officer or supervisor shall ensure that copies of such training records are placed in the employee's Training File.

1026.7.5 MEDICAL FILE

The Medical file shall be maintained separately from all other files and shall contain all documents relating to the employee's medical condition and history, including but not limited to the following:

- (a) Materials relating to medical leaves of absence.
- (b) Documents relating to workers compensation claims or receipt of short or long term disability benefits.
- (c) Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records which reveal an employee's medical condition.
- (e) Any other documents or material which reveals the employee's medical history or medical condition, including past, present, or future anticipated mental, psychological or physical limitations.

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1026.8 PURGING OF FILES

Generally, personnel files must be maintained by the department according to corresponding Archives law. However, letters of reprimand and notices of discipline must be retained for three years (Oregon Administrative Rules 166-200-0090).

Informal complaint records, and all related files, not resulting in disciplinary action, and having no pending litigation or other ongoing legal proceedings, may be purged after being held for two years (Oregon Administrative Rules 166-200-0010).

All other disciplinary files and investigations of Internal Affairs complaints not pending litigation or other ongoing legal proceedings, may be purged after three years. If the investigation resulted in termination, all related files must be retained for ten years after the separation (Oregon Administrative Rules 166-200-0100).

- (a) Each supervisor responsible for completing the employee's performance evaluation shall also determine whether any prior sustained disciplinary file should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the applicable statutory period, approval for such retention shall be obtained through the chain of command from the Chief of Police.
- (c) During the preparation of each employee's performance evaluation, all complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. If, in the opinion of the Chief of Police, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter may be destroyed pursuant to resolution.

1026.9 BRADY MATERIAL IN PERSONNEL FILES

The purpose of this section is to establish a procedure for releasing potentially exculpatory information (so-called Brady material) contained within confidential peace officer personnel files.

1026.9.1 DEFINITIONS

Brady material - In the *Brady v. Maryland* decision (373 U.S. 83 (1963)) the United States Supreme Court held that the prosecution has an affirmative duty to disclose to the defendant evidence which is both favorable and material to the guilt and/or punishment of the defendant.

The prosecution - Refers to any prosecuting attorney and all investigative agencies involved in the criminal prosecution of a defendant, including this department.

ORS 135.815 - Oregon law also establishes a criminal defendant's right to access potentially exculpatory evidence.

1026.9.2 RELEASE OF PERSONNEL FILES IN LEGAL PROCEEDINGS

Personnel files are generally exempt from disclosure under ORS 192.501 to 192.505. When that exemption is invoked, the subject records will be examined by the court, in an in camera hearing,

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and the court will determine whether or not the exemption is valid. Therefore, in civil and/or criminal matters, an employee's confidential personnel records may be disclosed if a court determines that the disclosure exemptions do not apply.

If an employee is a material witness in a criminal case and that employee's personnel file potentially contains exculpatory evidence that may be discoverable under ORS 135.815, the court will examine the materials in camera, and decide whether or not the records must be revealed.

In making its decisions, the court will balance the public's interest in having the records revealed against the interests of the employee, and then decide whether or not the otherwise confidential records must be revealed.

Request for Change of Assignment

1028.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

1028.2 REQUEST FOR CHANGE OF ASSIGNMENT

Personnel wishing a change of assignment are to complete a memorandum and the form should then be forwarded through the chain of command to their Division Commander.

1028.2.1 PURPOSE OF MEMORANDUM

The memorandum shall include their request and their qualifications for specific assignments. All relevant experience, education and training should be included when completing this form.

All assignments an employee is interested in should be listed on the form.

The Request for Change of Assignment memo will remain in effect until the end of the calendar year in which it was submitted. Effective January 1st of each year, employees still interested in new positions will need to complete and submit a new Change of Assignment Request memo.

1028.3 SUPERVISOR'S COMMENTARY

The officer's immediate supervisor shall make appropriate comments and recommendations and attach those to the form before forwarding it to the Division Commander of the employee involved. In the case of patrol officers, the Patrol Sergeant must comment on the request with his/her recommendation before forwarding the request to the Division Commander. If the Patrol Sergeant does not receive the Change of Assignment Request Form, the Division Commander will initial the form and return it to the employee without consideration.

Commendations and Awards

1030.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

1030.2 WHO MAY MAKE COMMENDATIONS

A written commendation may be made by any supervisor regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the individual being commended. Additionally, investigating officers may commend uniformed officers for exceptional assistance in investigative functions, with approval from the investigator's supervisor. Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

1030.3 COMMENDABLE ACTIONS

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the Department
- Any action or performance that is above and beyond the typical duties of an employee

1030.3.1 COMMENDATION INCIDENT REPORT

The Commendation Incident Report shall be used to document the commendation of the employee and shall contain the following:

- (a) Employee name, division, and assignment at the date and time of the commendation
- (b) A brief account of the commendable action shall be documented on the form with report numbers, as appropriate
- (c) Signature of the commending supervisor

Completed reports shall be forwarded to the appropriate Division Commander for his/her review. The Division Commander shall sign and forward the report to the Chief of Police for his/her review.

The Chief of Police will return the commendation to the employee for his/her signature. The report will then be returned to the Administrative Secretary for entry into the employee's personnel file.

1030.3.2 AWARDS

Awards will be presented to deserving individuals who meet the following criteria and as directed by the Chief of Police. At his/ her discretion, the Chief of Police may appoint an awards committee for determining the eligibility for an award. In all cases awards will be processed though the commendation process as outlined in this policy.

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Commendations and Awards

Police Medal of Valor

While acting in official capacity performs an act of exceptional heroism.

- Above the normal recognized demands of the job.
- Involve immanent risk to personal safety.
- Cannot be the result of foolhardy or improper action(s).

Police Shield of Honor

- While acting in their official capacity and as a result of a felonious act.
- Serious injury (protracted pain or disfigurement) or death.
- Cannot be the result of foolhardy or improper action.
- May be presented to a member of an outside agency if in direct support of this department's operations.

Police Meritorious Service Medal

- Perform an action or actions which exemplify extraordinary devotion to duty, the Law Enforcement profession and the community as a whole.
- May be considered for an action that does not meet all the criteria for the Medal of Valor.
- May include but does not require risk to personnel safety.
- The merit of the action(s) stands alone based on examination of the facts.
- May be presented to an outside agency member or a citizen if the action was in direct support of this departments operations.

Life Saving Medal

- The nominee was aware of the seriousness of the situation;
- The nominee acted purposely;
- The nominee did not carelessly create the situation causing the need for them to act;
- The action need not have been taken while on duty; and
- If the actions led to the prolonging of life to the extent that the victim was released to the care of medical authorities, the nominee is eligible to receive this award.

Police and Reserve Police Officer of the Year

- Awarded for enthusiasm, consistent work effort, involvement in public service, community and departmental functions.
- Consistent effort throughout the year and not for a single event or action.
- Awarded to an officer who demonstrates continuous exemplary performance.

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Commendations and Awards

Receiving one award does not disqualify a member from receiving another if that person is eligible. The Chief of Police or his/her designee will hold an awards ceremony on a "as needed basis" to recognize the deserving employee(s).

Fitness for Duty

1032.1 PURPOSE AND SCOPE

Monitoring members' fitness for duty is essential for the safety and welfare of the members of the Department and the community. The purpose of this policy is to ensure that all members of this department remain fit for duty and able to perform their job functions.

1032.2 MEMBER RESPONSIBILITIES

It is the responsibility of each member of this department to maintain physical stamina and psychological stability sufficient to safely and effectively perform the essential duties of the member's position.

During working hours, all members are required to be alert, attentive, and capable of performing their assigned responsibilities.

Any member who feels unable to perform the member's duties shall promptly notify a supervisor. In the event that a member believes that another department member is unable to perform assigned duties, such observations and/or belief shall be promptly reported to a supervisor.

1032.3 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee or receiving a report of an employee who is perceived to be unable to perform his/her duties shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Patrol Sergeant or employee's available Captain, a determination should be made whether or not the employee should be temporarily relieved from their duties.
- (e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

1032.3.1 DUTY STATUS

In conjunction with the Patrol Sergeant or the member's Captain, the supervisor should make a preliminary determination regarding the member's duty status.

If a determination is made that the member can safely and effectively perform the essential functions of the member's job, the member should be returned to duty and arrangements made for appropriate follow-up.

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Fitness for Duty

If a preliminary determination is made that the member's conduct or behavior represents an inability to safely and effectively perform the essential functions of the member's job, the Patrol Sergeant or the member's Captain should immediately relieve the member of duty pending further evaluation.

Employees relieved of duty shall comply with the administrative leave provisions of the Personnel Complaints Policy

The Chief of Police shall be promptly notified in the event that any member is relieved of duty.

1032.4 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 16 hours in a day (24 hour) period or
- 30 hours in any two-day (48 hour) period or
- 84 hours in any seven-day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve any member who has exceeded the above guidelines to off-duty status.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime, and any other work assignments.

1032.5 APPEALS

Employees disputing the application or interpretation of this policy may submit a grievance as provided in the Grievance Procedure Policy.

1032.6 MENTAL HEALTH WELLNESS PROGRAM

The Chief of Police or the authorized designee is responsible for establishing a mental health wellness program to address issues related to mental health wellness for officers employed by the Department (2019 Oregon Laws, c.177).

1032.7 POLICY

The Milwaukie Police Department strives to provide a safe and productive work environment and ensure that all members of this department can safely and effectively perform the essential functions of their jobs. Under limited circumstances, the Department may require a professional evaluation of a member's physical and/or mental capabilities to determine the member's ability to perform essential functions.

1032.8 FITNESS-FOR-DUTY EVALUATIONS

A fitness-for-duty evaluation may be ordered whenever circumstances reasonably indicate that a member is unfit for duty or following an officer-involved shooting or death-in-custody incident.

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Fitness for Duty

1032.8.1 PROCESS

The Chief of Police, in cooperation with the Department of Human Resources, may order the member to undergo a fitness-for-duty evaluation.

The examining practitioner will provide the Department with a report indicating whether the member is fit for duty. If the member is not fit for duty, the practitioner will include the existing restrictions or conditions in the report.

In order to facilitate the evaluation of any member, the Department will provide all appropriate documents and available information.

All reports and evaluations submitted by the examining practitioner shall be part of the member's confidential medical file.

Any member ordered to undergo a fitness-for-duty evaluation shall comply with the terms of the order and cooperate fully with the examining practitioner.

Any failure to comply with such an order and any failure to cooperate with the practitioner may be deemed insubordination and shall subject the member to discipline, up to and including termination.

Determinations regarding duty status of members who are found to be unfit for duty or fit for duty with limitations will be made in cooperation with the Department of Human Resources.

Meal Periods and Breaks

1034.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as possible shall conform to the policy governing all City employees that has been established by the City Manager

1034.1.1 MEAL PERIODS

Sworn employees shall remain on duty subject to call during meal breaks. All other employees are not on call during meal breaks unless directed otherwise by a supervisor.

Uniformed officers shall take their breaks within the City limits unless on assignment outside of the City

The time spent for the meal period shall not exceed the authorized time allowed.

1034.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break, near the mid point, for each four-hour work period. Only one 15 minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor.

Employees normally assigned to the police facility shall remain in the police facility for their breaks. This would not prohibit them from taking a break outside the facility if on official business.

Field officers will take their breaks in their assigned areas, subject to call and shall monitor their radios. When field officers take their breaks away from their vehicles, they shall do so only with the knowledge of LOCom (Lake Oswego Communications).

Payroll Records

1036.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of department members who are eligible for the payment of wages.

1036.2 POLICY

The Milwaukie Police Department maintains timely and accurate payroll records.

1036.3 RESPONSIBILITIES

Members are responsible for the accurate and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their commands.

1036.4 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Administration Captain as established by the City payroll procedures.

Overtime Payment Requests

1038.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Collective Bargaining Agreement (MPEACBA), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked.

1038.1.1 DEPARTMENT POLICY

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

No non-exempt employee is authorized to volunteer work time for the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor authorizes or directs the employee to complete a form for such a period, the employee shall comply.

The individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed a maximum of 60 hours at any given time and accrue more than 120 hours of compensatory time in any fiscal year.

1038.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime payment request forms for verification by their immediate supervisors and then forward them to Administration Captain as soon as practical. Failure to submit a request for overtime payment in a timely manner may result in denial of compensation for that pay period.

1038.2.1 EMPLOYEES RESPONSIBILITY

Employees shall complete the requests immediately after working the overtime and turn them in to their immediate supervisor or the Patrol Sergeant. Employees submitting overtime cards for on-call pay when off duty shall submit cards to the Patrol Sergeant the first day after returning for work.

1038.2.2 SUPERVISORS RESPONSIBILITY

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

After the entry has been made on the employee's time card, the overtime payment request form is forwarded to the employee's Division Commander for final approval.

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Overtime Payment Requests

1038.2.3 DIVISION COMMANDERS RESPONSIBILITY

Division Commanders, after approving payment, will then forward the request to payroll for payment.

1038.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that a minimum number of hours will be paid, (e.g., two hours for Court, four hours for outside overtime). The supervisor will enter the actual time to be paid.

1038.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

| <u>TIME WORKED</u> | <u>INDICATE ON CARD</u> |
|--------------------|-------------------------|
| 1 to 15 minutes | ¼ hour |
| 16 to 30 minutes | hour |
| 31 to 45 minutes | ¾ hour |
| 46 to 60 minutes | 1 hour |

1038.3.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other officer, the Patrol Sergeant or other approving supervisor may require each employee to include the reason for the variation on the back of the overtime payment request.

Outside Employment

1040.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

1040.1.1 DEFINITIONS

Outside Employment - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

Outside Overtime - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

1040.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee shall submit an e-mail or memorandum to the employee's immediate supervisor requesting the outside employment. The written correspondence will then be forwarded through channels to the Chief of Police for consideration.

If approved, the employee will be notified in writing via e-mail or on the submitted memorandum. Approval will be valid through the end of the calendar year. Any employee seeking to renew an approval for outside employment shall submit a new outside employment request in a timely manner.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason at the time of the denial.

1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's outside employment request is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

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If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Collective Bargaining Agreement (CBA).

1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT APPROVALS

Any outside employment approval may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment. That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the employee's outside employment approval.
- (b) Suspension or revocation of a previously approved outside employment may be included as a term or condition of sustained discipline.
- (c) If, at any time during the term of a valid outside employment approval, an employee's conduct or outside employment conflicts with the provisions of department policy, the approval may be suspended or revoked.
- (d) When an employee is unable to perform at regular duty capacity due to an injury or other condition, any previously approved outside employment approval may be subject to similar restrictions as those applicable to the employee's regularly assigned duties until the employee has returned to regular duty status.

1040.3 PROHIBITED OUTSIDE EMPLOYMENT

The Department expressly reserves the right to deny any Outside Employment Requests submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department
- (d) Involves time demands that would render performance of the employee's duties for this department less efficient

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1040.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

No member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside overtime will be assigned, monitored and paid through the Department.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
 - 1. The officer(s) shall wear the departmental uniform/identification.
 - 2. The officer(s) shall be subject to the rules and regulations of this department.
 - 3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
 - 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
 - 5. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

1040.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1040.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Captain, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the officer's law enforcement status.

1040.4 DEPARTMENT RESOURCES

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

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Outside Employment

1040.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest.

1040.5 MATERIAL CHANGES TO OUTSIDE EMPLOYMENT

If an employee terminates his or her outside employment, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material should report the change.

1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions, a notice of revocation of the member's approval will be forwarded to the involved employee.

Criteria for revoking the outside employment approval include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the City's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Milwaukie Police Department, a request (in writing) may be made to the Chief of Police to restore the approval.

On Duty Injuries

1042.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for the reporting the occurrence of on-duty injuries, occupational illnesses, or deaths to Risk Management, to ensure proper medical attention is received, and to ensure documentation of the circumstances of the incident.

1042.2 WORKER'S COMPENSATION FUND REPORTS

1042.2.1 REPORTING OF INJURIES

All injuries and exposures to hazardous materials must be reported to a supervisor as soon as possible, but no later than 24 hours from the time the employee becomes aware of the injury, not including days off.

If an injury or exposure does not require treatment by a doctor or medical facility, and does not result in time loss, it shall be recorded on the "Supervisor's Report of Injury Form" at the earliest opportunity.

Injuries requiring medical treatment or resulting in time off, shall be reported to a supervisor as soon as the employee becomes aware of the injury. Supervisors will ensure a state "Report of Job Injury or Illness" form 801 is completed and signed by the employee.

Injuries requiring overnight or longer hospitalization must be reported to the Oregon Occupational Safety and Health Administration (OR-OSHA) within 24 hours by calling 1-800-922-2689. Fatalities must be reported within eight hours (Oregon Administrative Rules 437-001-0700(21)).

The Administration Captain shall report the claim to the City's insurer no later than five days after notice or knowledge of any claim or accident which may result in a compensable injury (Oregon Administrative Rules 436-060-0010(3)).

1042.2.2 ACCIDENT DEFINED

Accident - is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur (e.g., exposure where no immediate injury is apparent).

1042.2.3 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor.

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On Duty Injuries

Any employee sustaining a work-related injury or illness that requires relief from duty is also required to comply with departmental policies and directives relating to the duty to periodically call in during absences, as well as the duty to notify the Department of any change in condition or anticipated duration of the absence.

When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Limited-service duty may be available for the employees whose injuries prevent resumption of regular duties.

An injured employee or employee who has suffered a work-related injury or illness shall report as soon as practical to his/her immediate supervisor the medical findings concerning the injury and the extent and duration of any work restrictions if they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

1042.2.4 SUPERVISOR'S RESPONSIBILITY

A supervisor learning of any work-related injury, illness or accident shall promptly prepare the appropriate forms as outlined under Policy Manual § 1042.2. Updated copies of forms with instructions for completion provided by Risk Management are kept in the Sergeant's office.

For work-related accidents, illness or injuries not requiring professional medical care, a Supervisor's Report of Injury form shall be completed in triplicate. All copies of the completed form shall be forwarded to the supervisor's Captain, through the chain of command.

When an accident, illness or injury is reported initially on the "Supervisor's Report of Injury" form and the employee subsequently requires professional medical care, the State of Oregon report of job injury or illness form 801 shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with a "report of job illness or injury" form 801, immediately upon request of the worker (OAR 436-060-0010 (1)).

Copies of any reports documenting the accident or injury should be forwarded to the Captain as soon as they are completed.

1042.2.5 DIVISION COMMANDER RESPONSIBILITY

The Division Commander receiving a report of a work-related accident or injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police.

1042.2.6 CHIEF OF POLICE RESPONSIBILITY

The Chief of Police shall review and forward copies of the report to the Department of Human Resources. Any copies of the report and any related documents retained by the Department shall be filed in the employee's confidential medical file and not in the employee's personnel file (see Policy Manual 1026).

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1042.3 INJURY OR ILLNESS NOT REQUIRING MEDICAL ATTENTION

Those injuries and illnesses not requiring medical attention shall be recorded on a Supervisor's Report of Injury form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

1042.4 SETTLEMENT OF INJURY CLAIMS

Occasionally, an employee's work-related injury results from the negligent or wrongful acts of another, for which the employee, the City, and/or other insurers are entitled to recover civilly. To ensure that the City's interests are protected and that the employee has the benefit of the City's experience in these matters, the following procedure is to be followed:

1042.4.1 EMPLOYEE TO REPORT INITIAL CONTACTS

When an employee sustains work-related injuries caused by another person and is then approached by such person or an agent, insurance company, or attorney and offered a settlement of claims, that employee shall take no action other than to make a written report of this contact to his/her supervisor as soon as possible.

1042.4.2 NO SETTLEMENT WITHOUT PRIOR NOTICE

No less than 10 days prior to accepting and finalizing the settlement of any third party claim arising out of or related to an on duty injury, the employee shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the employee accept a settlement without first providing such written notice to the Chief of Police. The purpose of such notice to permit the City to determine whether or not the offered settlement will affect any claim the City may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury and to protect the City's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

Personal Appearance Standards

1044.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the Department, employees of this department shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

1044.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

1044.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, hair must be no longer than the horizontal level of the bottom of the uniform patch when the employee is standing erect, worn up or in a tightly wrapped braid or ponytail.

Hair color shall be of the natural occurring hair colors found in nature. Extreme or unnatural hair coloring is not allowed.

1044.2.2 MUSTACHES

A short and neatly trimmed mustache may be worn. Mustaches shall not extend any farther below the mid-line between the bottom lip and the chin line of the lower lip or beyond the natural hairline of the upper lip.

Mustaches known as fu-manchu and handlebar are not allowed.

1044.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1044.2.4 FACIAL HAIR

Personnel may elect to have a beard and goatee. Beards and goatees will be neatly trimmed and at no time be longer than two inches when extended straight out from the skin surface.

A beard is defined as hair grown covering the face line in a continuous pattern from sideburns, along the cheek line, covering the chin and connecting with a mustache.

A goatee is hair that is grown in a continuous pattern including the chin and mustache but does not extend along the cheek line and does not connect to sideburns.

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Personal Appearance Standards

Any hair growth partial or otherwise then as defined by this policy and authorized by the Chief of Police is prohibited.

When authorized, growth of facial hair should be started during a period of absence from duty such as vacation etc. so as not to give the appearance of being unshaven.

1044.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, Sworn Employees fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

Sworn Members in uniform shall not color their nails with any color other than clear or neutral. Other Members may color their nails as long as the color is appropriate for a professional office environment. This would exclude very bright or unique colors that would attract attention or be a distraction based on color alone.

For Members who choose to color their nails all nails of both hands will be of the same color.

1044.2.6 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

- (a) Necklaces shall not be visible above the shirt collar.
- (b) Earrings shall be small and worn only in or on the earlobe.
- (c) One ring or ring set may be worn on each hand of the department member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation, if the member is assigned to a position where that may occur.
- (d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.
- (e) Wristwatches shall be conservative and present a professional image.
- (f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

1044.3 TATTOOS

While on-duty or representing the Milwaukie Police Department in any official capacity, members should make every reasonable effort to conceal tattoos or other body art. At no time while the member is on-duty or representing the Department in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

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1044.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited except with prior authorization of the Chief of Police. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement.
- (c) Abnormal shaping of the ears, eyes, nose or teeth.
- (d) Branding or scarification.

Uniform Regulations

1046.1 PURPOSE AND SCOPE

The uniform policy of the Milwaukie Police Department is established to ensure that uniformed officers will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated Policy Manual sections:

Section 700 - Department Owned and Personal Property

Section 1024 - Body Armor

Section 1044 - Grooming Standards

The Uniform and Equipment Specifications manual is maintained and periodically updated by the Chief of Police or his/her designee. That manual should be consulted regarding authorized equipment and uniform specifications.

The Milwaukie Police Department will provide uniforms for all employees required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement.

1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

- (a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.
- (b) All officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Personnel shall wear only the uniform specified for their rank and assignment.
- (d) The uniform is to be worn in compliance with the specifications set forth in the department's uniform specifications that are maintained separately from this policy.
- (e) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.
- (f) Civilian attire shall not be worn in combination with any distinguishable part of the uniform except when the uniform is worn while in transit, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off duty.
- (g) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.

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- (h) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.
- (i) Mirrored sunglasses will not be worn with any Department uniform
- (j) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or his designee.
 - 1. Wrist watch
 - 2. Wedding ring(s), class ring, or other ring of tasteful design. A maximum of one ring/set may be worn on each hand
 - 3. Medical alert bracelet

1046.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

- (a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.
- (b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Captain.

1046.3 UNIFORM CLASSES

1046.3.1 CLASS A UNIFORM

The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all sworn personnel. The Class A uniform includes the standard issue uniform with:

- (a) Long sleeve shirt with tie
- (b) Polished shoes

Boots with pointed toes are not permitted.

1046.3.2 CLASS B UNIFORM

All officers will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

- (a) The long or short sleeve shirt may be worn with the collar open. No tie is required
- (b) A white, navy blue or black crew neck t-shirt must be worn with the uniform

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- (c) All shirt buttons must remain buttoned except for the last button at the neck
- (d) Shoes for the Class B uniform may be as described in the Class A uniform
- (e) Approved all black unpolished shoes may be worn
- (f) Boots with pointed toes are not permitted

1046.3.3 CLASS C UNIFORM

The Class C uniform may be established to allow field personnel cooler clothing during the summer months or special duty. The Chief of Police will establish the regulations and conditions for wearing the Class C Uniform and the specifications for the Class C Uniform.

1046.3.4 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Canine Team, SWAT, Bicycle Patrol, Motor Officers and other specialized assignments.

1046.3.5 FOUL WEATHER GEAR

The Uniform and Equipment Specifications lists the authorized uniform jacket and rain gear.

1046.3.6 RESERVE OFFICER UNIFORM

The reserve officer's uniform will be the same as for the regular officer with the exception of the badge. All uniform policies, regulations and specifications apply equally to reserve officers.

1046.4 INSIGNIA AND PATCHES

- (a) **Shoulder Patches** - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve.
- (b) **Service stripes, stars, etc.** - Service stripes and other indicators for length of service may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform. The bottom of the service stripe shall be sewn the width of one and one-half inches above the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only.
- (c) **The regulation nameplate, or an authorized sewn on cloth nameplate, shall be worn at all times while in uniform.** The nameplate shall display the employee's first and last name. If an employee's first and last names are too long to fit on the nameplate, then the initial of the first name will accompany the last name. If the employee desires other than the legal first name, the employee must receive approval from the Chief of Police. The nameplate shall be worn and placed above the right pocket located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.
- (d) **When a jacket is worn, the nameplate or an authorized sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform.**

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- (e) Assignment Insignias - Assignment insignias, (SWAT, FTO, etc.) may be worn as designated by the Chief of Police.
- (f) Flag Patch - A department approved United States flag patch will be centered 1/2 inch above the name plate on the right side of all authorized uniformed shirts
- (g) Badge - The department issued badge, or an authorized sewn on cloth replica, must be worn and visible at all times while in uniform.
- (h) Rank Insignia - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police may authorize exceptions.
- (i) Veteran service pin shall be worn approximately 1/8" over left breast pocket.

1046.4.1 MOURNING BADGE

Uniformed employees should wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

- (a) An officer of this department - From the time of death until midnight on the 14th day after the death.
- (b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of an out of region fallen officer.
- (d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief of Police.

1046.5 CIVILIAN ATTIRE

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

- (a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.
- (b) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear button style shirts with a collar, slacks or suits that are moderate in style.
- (c) All female administrative, investigative, and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses, or suits which are moderate in style.
- (d) The following items shall not be worn on duty:
 - 1. T-shirt alone
 - 2. Open toed sandals or thongs
 - 3. Swimsuit, tube tops, or halter-tops

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4. Spandex type pants or see-through clothing
 5. Distasteful printed slogans, buttons or pins
- (e) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.
- (f) No item of civilian attire may be worn on duty that would adversely affect the reputation of the Milwaukie Police Department or the morale of the employees.

1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, Milwaukie Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Milwaukie Police Department to do any of the following:

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social, or non-profit publication; or any motion picture, film, video, public broadcast, or any website.

1046.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT

- (a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.
- (b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.
- (c) Replacement of items listed in this order as optional shall be done as follows:
 1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
 2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property. (Policy Manual § 700)

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1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Milwaukie Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

Milwaukie Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

Police Cadets

1048.1 PURPOSE AND SCOPE

Cadets work under direct supervision, perform a variety of routine and progressively more advanced tasks in an apprenticeship program in preparation for a career in law enforcement.

1048.1.1 POLICE CADET AUTHORITY

Cadets have no authority or police powers - they are to be considered guests of the police department.

At no time are Cadets allowed to make arrests, issue citations, or confront persons suspected of criminal behavior.

Cadets are public relations representatives for the of City of Milwaukie. They are expected to "set a good example" for other students and young adults, while learning more about their community.

1048.2 MINIMUM QUALIFICATIONS REQUIRED TO BE A MILWAUKIE POLICE CADET

Applicants must be between 16 and 21 years of age and possess a valid driver's license (Some exceptions may be made to 15 year olds with a valid driver's permit.)

Any person attending high school or college must maintain a minimum grade point average of 2.5.

Applicants cannot have a criminal history, or a juvenile criminal history. (No convictions, or arrests.)

The applicant must have a valid driver's license and a good driving record. The applicant must maintain a good driving record. Any driving crime, or suspension of any kind is automatic disqualification.

Any applicant under 18 years of age must have signed consent form a legal guardian allowing the applicant to participate in the program.

1048.3 PROGRAM COORDINATOR

A Sergeant will serve as the Program Coordinator. This supervisor will be responsible for tracking the educational and job performance of cadets as well as making their individual assignments throughout the Department. He/she will also monitor the training provided for all cadets and review all decisions affecting job assignments, status for compensation, school attendance and performance evaluations.

1048.3.1 PROGRAM ADVISORS

The Program Coordinator may select individual officers to serve as advisors for the Cadet Program. These officers will serve as mentors for each cadet. Cadets will bring special requests, concerns, and suggestions to their program advisor for advice or direction before contacting the Program Coordinator. One advisor may be designated as the Coordinator's assistant to lead scheduled meetings and training sessions involving the cadets. Multiple cadets may be assigned to each program advisor. Program advisors are not intended to circumvent the established chain

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Police Cadets

of command. Any issues that may be a concern of the individual's supervisor should be referred back to the Program Coordinator.

1048.4 ORIENTATION AND TRAINING

Newly hired cadets will receive an orientation of the organization and facilities before reporting to their first assignment. On-the-job training will be conducted in compliance with the Cadet Training Manual. Training sessions will be scheduled as needed to train cadets for as many assignments as possible. In addition to job-specific training, information will be offered to prepare cadets to compete successfully in the police officer selection process, as well as the academy training. All training will focus on improving job performance, as well as preparation to become police officers. These meetings will also offer an opportunity to receive continuous feedback regarding progress of the program.

1048.5 CADET UNIFORMS

Each cadet will be provided two uniforms meeting the specifications described in the Uniform Manual for non-sworn employees.

1048.6 CADET ASSIGNMENTS

[Cadets are mandated to volunteer at least 16 hours a month with the police department.](#)

Cadets attend monthly meetings and training sessions.

Their duties include assisting the City of Milwaukie Police Department in a number of public relations settings.

Cadets ride on patrol with police officers, mainly as observers. They see how police officers deal with a variety of situations, such as traffic accidents, drunken drivers, domestic violence incidents, assaults, burglaries, and thefts.

Cadets also perform duties such as directing traffic at traffic crash scenes, and assist with security details at City functions, i.e. parades and sports activities.

Cadets may also be asked to assist with security at crime scenes, and transport needed equipment.

They deliver documents to city officials.

1048.7 RIDE-ALONG PROCEDURES

All cadets are authorized to participate in the Ride-Along Program on their own time and as approved by their immediate supervisor and the appropriate Operations Sergeant. Cadets shall wear their uniform while participating on a ride-along.

1048.8 PERFORMANCE EVALUATIONS

Performance evaluations for all cadets shall be completed on yearly basis starting from their date of appointment by the Program Coordinator or their designee.

Nepotism and Conflicting Relationships

1050.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure effective supervision, safety, security, performance, assignments and discipline while maintaining positive morale by avoiding actual or perceived favoritism, discrimination, or other actual or potential conflicts of interest by or between members of this Department.

1050.1.1 DEFINITIONS

Relative "" An employee's parent, step-parent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Personal Relationship "" Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Business Relationship "" Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder or investor in an outside business, company, partnership, corporation, venture or other transaction where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

Conflict of Interest "" Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Supervisor "" An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

Subordinate "" An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

1050.2 RESTRICTED DUTIES AND ASSIGNMENTS

While the Department will not prohibit personal or business relationships between employees, the following reasonable restrictions shall apply:

- (a) Employees are prohibited from directly supervising, occupying a position with grievance or complaint adjustment authority, or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.
 1. If circumstances require that such a supervisor/subordinate relationship exists temporarily, the supervisor shall make every reasonable effort to defer matters involving the involved employee to an uninvolved supervisor.
 2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department however, reserves the right to transfer

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Nepotism and Conflicting Relationships

or reassign any employee to another position within the same classification as it may deem necessary in order to avoid conflicts with any provision of this policy.

- (b) Employees are prohibited from participating in, contributing to, or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
- (c) Whenever possible, FTO's and other trainers will not be assigned to train relatives. FTO's and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
- (d) In order to avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
- (e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual(s) who they know or reasonably should know are under criminal investigation, convicted felons, parolees, fugitives, registered sex offenders or who engage in serious violations of state or federal laws.

1050.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, employees shall promptly notify his/her uninvolvement, next highest level of supervisor.

Whenever any employee is placed in circumstances which would require the employee to take enforcement action or provide other official information or services to any relative or other individual(s) with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolvement, immediate supervisor. In the event that no uninvolvement supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolvement employee either relieve the involved employee or minimally remain present to witness the action.

1050.2.2 SUPERVISOR RESPONSIBILITY

Upon being notified of or becoming aware of any circumstance(s) which could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

Employee Involved Domestic Violence

1052.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for handling matters of domestic violence and abuse involving law enforcement employees. This policy applies to incidents involving any law enforcement employee regardless of his/her employing agency or jurisdiction.

1052.1.1 POLICY

The Milwaukie Police Department has a zero tolerance policy for domestic violence whether committed by a citizen or an employee. Where incidents of domestic violence occur, the Department will act quickly to protect the victim, arrest the perpetrator and conduct appropriate criminal and/or administrative investigations.

1052.1.2 DEFINITIONS

Domestic Violence, Abuse and Family Members - are as defined in the Domestic Violence Policy in this manual.

Employee - means any person employed on a full-time or part-time basis by a law enforcement agency. It also includes any unpaid volunteer with enforcement authority, such as a reserve officer.

Law Enforcement Agency - means any federal, state, county, or local criminal justice agency employing persons having peace officer powers granted under authority of the Oregon Revised Statutes.

Restraining Order - Any court order restricting or prohibiting a person's contact with another person or persons, and/or restricting where and when a person may be at a location or time. Such an order may also result in restricting possession of firearms and ammunition. This includes, but is not limited to, restraining orders and protective orders.

1052.2 STATUTORY REQUIREMENTS

Pursuant to the Federal Domestic Violence Gun Control Act (18 USC §921(a) and 18 USC § 922(d)), any person who has been convicted of a misdemeanor domestic violence offense is prohibited from possessing any firearm or ammunition. Additionally, any person convicted of a felony is prohibited from possessing a firearm (ORS 166.270).

Oregon and Federal law also prohibit firearm possession by any individual who is the subject of a domestic violence restraining order (this federal restriction does not apply to temporary restraining orders) (18 USC § 922(d)(8)) and ORS 107.718).

1052.2.1 REPORTING

Employees who are arrested for, or convicted of, any crime involving domestic violence, or who become the subject of a criminal investigation, or criminal or civil protective or restraining order related to domestic violence, regardless of jurisdiction, shall report that fact to their supervisor as required in the Reporting of Employee Convictions Policy at the earliest opportunity and provide notice of any scheduled court dates, times, appearances and proceedings.

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1052.3 INCIDENT RESPONSE

All department personnel shall accept, document in writing, and preserve all calls, reports, telephone and radio tapes, including those made anonymously, involving possible employee domestic violence as “on-the-record” information. The information shall be forwarded to the Patrol Sergeant and respective employee’s supervisor for appropriate investigative action.

Upon arrival at the scene of a domestic violence incident involving any department employee as the suspect or victim, the handling officer shall immediately notify LOCOM and request a supervisor be sent to the scene. If there is a question about whether an incident falls under this policy a supervisor shall be requested.

1052.3.1 ON-SCENE SUPERVISOR RESPONSE

A supervisor shall, whenever possible, report to the scene of all domestic violence incidents that occur within this jurisdiction where an Milwaukie Police Department employee, or any other law enforcement agency employee, is identified as a suspect or victim, regardless of the involved individual’s agency jurisdiction. All the provisions of the department Domestic Violence policy shall be followed (see the Domestic Violence Policy).

- (a) The supervisor will ensure that a thorough investigation is conducted and all appropriate reports are forwarded to the District Attorney’s Office.
- (b) Whenever a law enforcement employee domestic violence call does not result in an arrest, the on-scene supervisor shall submit a written report explaining any and all reasons why an arrest was not made or a warrant was not sought. When feasible, a sworn supervisor from this department will respond to the location of any domestic violence incident involving an employee of the Milwaukie Police Department which occurs in another jurisdiction to assist the responding agency and to take custody of any department weapons or other department equipment removed from the employee's possession.

1052.3.2 ARREST OF A LAW ENFORCEMENT OFFICER

- (a) Whenever a sworn employee of the Milwaukie Police Department is arrested, the supervisor shall relieve the accused of any department issued duty weapon(s).
- (b) The investigating officer or supervisor shall also request permission to take any other firearms on scene for safekeeping.
- (c) If the arrested employee is in uniform, he/she should be allowed to change to civilian clothes prior to transport to the jail, if feasible.
- (d) The transporting officer shall ensure that corrections personnel are notified of the person's employee status to ensure the safety of the employee while he/she is in custody.
- (e) Employees who are arrested shall be placed on administrative leave pending the disposition of criminal and administrative investigations.

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1052.3.3 FIREARMS RESTRICTIONS

Any officer who is arrested, becomes a defendant, or is the respondent of a restraining or protective order that restricts or prevents the officer from possessing firearms, will not be allowed to possess firearms on or off-duty as directed by the order. Officers will immediately ensure that all firearms are removed from their residences, department lockers and all other locations where they would have actual or constructive possession of such items.

Officers who are prohibited from possessing firearms may be placed on administrative leave or assigned to a position involving no contact with the public or access to firearms.

1052.4 EMPLOYEE RESPONSIBILITY

- (a) Employees are encouraged to seek confidential assistance from department or city resources (e.g., Employee Assistance Program), or other qualified individuals or entities, to prevent a problem from escalating to the level of criminal conduct against a family or household member.
- (b) Employees with definitive knowledge of abuse and/or violence involving fellow employees must report such information in a timely manner to their supervisor.
- (c) If an employee becomes aware of possible witness or victim intimidation/coercion, he/she shall prepare a written report and immediately deliver it to the investigator handling the case through the proper chain of command.
- (d) Employees may not engage in threatening, harassing, stalking, surveillance or other such behavior designed to interfere with cases against fellow employees or intimidate witnesses.
- (e) No employee shall solicit or be afforded any privileges or special considerations.
- (f) Employees who fail to cooperate with the investigation of a law enforcement employee domestic violence case will be subject to investigation and applicable administrative sanction and/or criminal charges.
- (g) An employee who falsely reports that a victim of law enforcement involved domestic violence has committed a crime (such as child abuse or neglect) will be subject to applicable administrative sanction and/or criminal charges.
- (h) An employee who becomes aware of another employee having difficulties which might lead to domestic violence should encourage him/her to get assistance.

1052.5 DEPARTMENT RESPONSIBILITIES

- (a) Supervisors should be aware of on or off-duty behaviors that may be warning signs of domestic violence which may include, but are not be limited to:
 - 1. Stalking and inappropriate surveillance activities.
 - 2. Unusually high incidences of physical altercations, injuries, or verbal disputes.

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3. Alcohol and/or drug abuse.
 4. Increase in controlling behaviors.
 5. Citizen or fellow employee complaints of aggression.
 6. Inappropriate aggression toward animals.
- (b) The Department, either in response to observed warning signs or at the request of an employee and/or their family or household member, shall provide non-punitive avenues of assistance to department members, their partners, and other family members as long as there is no probable cause to believe a crime has been committed.
- (c) Confidential referrals to counseling services in collaboration with existing community services that have specific expertise in domestic violence, including the department chaplain, will be made available to employees.
- (d) Employees who disclose to any member of the department that they have personally engaged in domestic violence are not entitled to confidentiality within the department. The report of such criminal conduct will be treated as an admission of a crime and shall be investigated both criminally and administratively.
- (e) The Department will make annual checks of every member's criminal history records, including but not limited to CCH, to determine if there are any entries for domestic violence arrests, convictions or restraining orders. Any such records found will be forwarded to the Chief of Police.
- (f) Any Department employee convicted of a domestic violence crime or found to have committed an act of domestic violence through an internal investigation may be subject to referrals, change in assignment and/or discipline up to and including termination.

1052.6 TRAINING

The Department will provide training to employees regarding domestic violence and this policy and will collaborate with local and state agencies dealing with domestic violence in designing curriculum and providing training.

Department Badges

1054.1 PURPOSE AND SCOPE

The Milwaukie Police Department badge and uniform patch as well as the likeness of these items and the name of the Milwaukie Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1054.2 POLICY

The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

1054.2.1 FLAT BADGE

Sworn officers, with the written approval of the Chief of Police may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

- (a) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the Milwaukie Police Department with the written approval of the Chief of Police.
- (b) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Policy Manual 700.
- (c) An honorably retired officer may keep his/her flat badge upon retirement.
- (d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

1054.2.2 NON-SWORN PERSONNEL

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Parking Control, Dispatcher).

- (a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.
- (b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

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Department Badges

1054.2.3 RETIREE UNIFORM BADGE

Upon honorable retirement employees may purchase or may be issued his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

It has been the tradition of the Milwaukie Police Department to affix the duty badge to a plaque and present it to a retiree for their honorable police service. This can continue as long as it does not violate this or other restrictions on such gifts.

1054.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and non-sworn uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

1054.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the department badge shall not be used without the expressed authorization of the Chief of Police and shall be subject to the following:

- (a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the Milwaukie Police Department. The following modifications shall be included
 1. The text on the upper and lower ribbons is replaced with the name of the employee association.
 2. The badge number portion displays the initials of the employee association.
- (b) The likeness of the department badge for endorsement of political candidates shall not be used without the expressed approval of the Chief of Police.

Modified Duty Assignments

1056.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for assigning employees to modified duty. Temporary modified-duty assignments may be available to employees who have incurred a duty-related illness or injury and, due to restrictions or limitations, are unable to perform their regular assigned duties. Non-duty related illnesses or injuries may also be considered for eligibility in accordance with this policy. Eligibility for modified-duty assignment is subject to the approval of the Chief of Police or his/her designee.

Modified-duty assignments are intended to provide an employee with the ability to continue working within the limits of his/her restrictions and limitations on a temporary basis while providing the Department with a productive employee during the interim period.

The Department will engage in a good faith interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability.

1056.2 DEFINITIONS

Modified Duty - Means a temporary, limited-term assignment not requiring performance of the full range of duties associated with the regular job classification. Modified duty also may be termed as light-duty assignments.

1056.3 LIMITATIONS

Modified-duty assignments are a management prerogative and not an employee right. Modified-duty assignments shall be subject to continuous re-assessment dependent upon Department need and the employee's ability to perform in a modified-duty capacity.

An injured employee may be assigned to a modified-duty position outside of his/her normal assignment or duties if it becomes available. If the injury or illness is non-duty related the employee shall be given the option to either accept the position or continue to draw on applicable sick leave or other leave accounts as applicable.

- (a) If an employee cannot adequately perform in a modified-duty assignment, such assignment may be modified or terminated.
- (b) The lack of Department need or a change in priorities may result in the employee's removal from or modification of a modified-duty assignment.
- (c) The Department may place conditions as deemed appropriate upon any modified-duty assignment.

1056.4 PROCEDURE

Employees may request assignment to modified duty by providing a signed statement from their health care provider describing their restrictions, limitations and expected duration to their Captain or his/her designee. The statement must also indicate if the employee requires any workplace accommodations, mobility aids or medical devices.

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Modified Duty Assignments

The Captain will determine what modified-duty assignments may be available based on the needs of the Department, limitations of the employee and suitability of the employee to work a particular assignment. Requests for a modified-duty assignment of 20 hours or less may be approved and facilitated by the Patrol Sergeant or Captain. Assignments of longer duration are subject to the approval of the Chief of Police or his/her designee.

1056.4.1 MODIFIED-DUTY SCHEDULES

The schedules of employees assigned to modified duty may be adjusted to suit medical appointments or Department needs at the discretion of the Captain.

The employee and his/her supervisors should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

1056.4.2 ACCOUNTABILITY

The employee's supervisors shall coordinate efforts to ensure proper time accountability.

- (a) Employees on modified duty are responsible for coordinating required doctor visits and physical therapy appointments in advance with their supervisor to appropriately account for any duty time taken. Doctor visits and appointments for treatment of injuries or illnesses that are not work related shall be arranged during off-duty time or otherwise charged to the employee's sick leave.
- (b) Employees shall promptly submit a status report for each visit to their treating health care provider and shall immediately notify their supervisor of any change in restrictions or limitations as determined by their health care provider. An employee assigned to a modified-duty assignment shall provide a duty status report to their supervisor no less than once every 30 days while the employee is on modified duty.
- (c) Supervisors shall keep the Captain apprised of the employee's status and ability to perform the modified-duty assignment. Modified-duty assignments that extend beyond 60 days will require a written status report and a request for an extension to the Captain with an update of the employee's current status and anticipated date of return to regular duty. Extensions require approval of the Captain.
- (d) When it is determined that an employee on modified duty will return to regular duty, the supervisor shall notify the Captain. All training and certification necessary for return to duty shall be reviewed and updated as necessary.

1056.4.3 MEDICAL EXAMINATIONS

The Department reserves the right to require, prior to returning to full-duty status, a fitness-for-duty examination of any employee assigned to a modified-duty assignment or of any employee having been on such assignment. Such examinations shall be at the expense of the Department.

Prior to returning to full-duty status, employees shall be required to provide a statement signed by their health care provider indicating that they are medically cleared to perform the basic and essential job functions of their assignment without restriction or limitation.

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Modified Duty Assignments

1056.5 PREGNANCY

It is the policy of the Department to reassign employees who are pregnant upon request by the employee or when deemed necessary by the Department to temporary assignments that will not routinely expose the employee to potentially hazardous environments or activities.

1056.5.1 EMPLOYEE NOTIFICATION

An employee who learns of her pregnancy should notify her immediate supervisor or a designated acting supervisor of the pregnancy as soon as practicable. The employee must inform the Department of her intent regarding reassignment, job accommodations and anticipated leave for the pregnancy or prenatal care. The employee shall also submit a statement from her health care provider of any job restrictions or limitations she may have.

1056.5.2 SUPERVISOR'S RESPONSIBILITY

Upon receiving the medical verification of the pregnancy and a request for job accommodation, reassignment or leave, the supervisor shall notify the Captain, who will consider assigning the employee to an available temporary modified-duty assignment if it is deemed appropriate by the Department or medically necessary by the employee's health care provider.

If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted consistent with the City's Personnel Rules and Regulations regarding Family and Medical Care Leave.

1056.6 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to the employee's assignment to modified duty.

1056.7 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided the certification, training or qualifications are not in conflict with any limitations or restrictions. Employees who are assigned to modified duty shall inform their supervisor of any inability to maintain any certification, training or qualifications.

Employee Speech, Expression and Social Networking

1059.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the legitimate needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any employee's communication, speech or expression that has been clearly established as protected or privileged.

1059.1.1 APPLICABILITY

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

1059.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Milwaukie Police Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

1059.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of the Milwaukie Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety or privacy of any employee, an employee's family or associates.

1059.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the Department's safety, performance and public-trust needs, the following is prohibited:

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Milwaukie Police Department or its employees.

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- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Milwaukie Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Milwaukie Police Department or its employees.
- (c) Speech or expression that could reasonably be foreseen as creating a negative impact on the credibility of the employee as a witness. (e.g., posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as creating a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Milwaukie Police Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or his/her designee (or any other act that would constitute a misuse of public information in violation of ORS 162.425).
- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Milwaukie Police Department on any personal or social networking or other website or web page, without the express written permission of the Chief of Police.
- (h) Failure to take reasonable and prompt action to remove any content that is in violation of this policy and/or posted by others from any web page or website maintained by the employee (e.g., social or personal website).
- (i) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department owned, for personal purposes while on-duty, except in the following circumstances:
 - 1. When brief personal communications may be warranted by the circumstances (e.g., inform family of extended hours).
 - 2. During authorized breaks, however, such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

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1059.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, employees may not represent the Milwaukie Police Department or identify themselves in any way as being affiliated with the Milwaukie Police Department in order to do any of the following:

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through some unofficial group or organization (e.g. bargaining group), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Milwaukie Police Department.

A notice of restrictions on political activities by employees will be posted and maintained by the Department in a place that is conspicuous to all employees as required by law (ORS 260.432).

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions on political subjects and candidates at all times while off-duty. However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502)).

1059.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to anything published or maintained through file-sharing software or any Internet site open to public view (e.g., Facebook, MySpace).

The Department also reserves the right to access, audit and disclose for whatever reason all messages, including attachments, and any information transmitted over any technology that is issued or maintained by the Department, including the department e-mail system, computer network or any information placed into storage on any department system or device.

All messages, pictures and attachments transmitted, accessed or received over department networks are considered department records and, therefore, are the property of the Department. The Department reserves the right to access, audit and disclose for whatever reason all messages, including attachments, that have been transmitted, accessed or received through any department system or device, or any such information placed into any department storage area or device. This includes records of all key strokes or web-browsing history made at any department computer or over any department network. The fact that access to a database, service or website requires

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a user name or password will not create an expectation of privacy if it is accessed through a department computer or network.

Line-of-Duty Deaths

1060.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Milwaukie Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief of Police may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

1060.1.1 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a non-sworn member during the course of performing their assigned duties.

Survivors - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

1060.2 POLICY

It is the policy of the Milwaukie Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

1060.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Division Captain, Chief of Police, and LOCOM.
 - 1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).
- (b) The Patrol Sergeant should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.
- (c) If the member has been transported to the hospital, the Patrol Sergeant or the designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.

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- (d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

1060.4 NOTIFYING SURVIVORS

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Police or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Police, Patrol Sergeant or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Department Chaplain.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting childcare or other immediate needs.

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- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivor's names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Milwaukie Police Department members may be apprised that survivor notifications are complete.

1060.4.1 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief of Police.

1060.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief of Police are responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support group, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

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1060.6 LIAISONS AND COORDINATORS

The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

- (a) Department Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.
- (d) Critical Incident Stress Management (CISM) coordinator.
- (e) Funeral Liaison.
- (f) Mutual aid coordinator.
- (g) Benefits Liaison.
- (h) Finance coordinator.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

1060.6.1 DEPARTMENT LIAISON

The Department Liaison should be a Captain or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison's responsibilities include, but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).
- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.
- (f) Making necessary contacts for authorization to display flags at half-mast.
- (g) Ensuring that department members are reminded of appropriate information—sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.

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- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

1060.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Arrange for appropriate and separate waiting areas for:
 - 1. The survivors and others whose presence is requested by the survivors.
 - 2. Department members and friends of the deceased member.
 - 3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Milwaukie Police Department members (except for members who may be guarding the suspect).
- (c) Ensure that survivors receive timely updates regarding the member before information is released to others.
- (d) Arrange for survivors to have private time with the member, if requested.
 - 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
 - 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the survivors why an autopsy may be needed.
- (g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.

1060.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Captain. The following should be considered when selecting the Survivor Support Liaison:

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- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include, but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes and other locations, as appropriate.
- (b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
 1. Items should not be delivered to the survivors until they are ready to receive the items.
 2. Items not retained as evidence should be delivered in a clean, unmarked box.
 3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
 4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
 1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (g) Working with the CISM coordinator to ensure that survivors have access to available counseling services.
- (h) Coordinating with the department's Public Information Officer (PIO) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Public Information Officer section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.

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- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel and other involved personnel as appropriate.
- (l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting survivors to department activities, memorial services or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

1060.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief of Police or the authorized designee, liaisons, coordinators and other resources to make CISM and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the CISM coordinator include, but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for CISM and counseling services, including:
 - 1. Members involved in the incident.
 - 2. Members who witnessed the incident.
 - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive CISM support as appropriate and possible.
- (c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) are available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available CISM and counseling services and assisting with arrangements as needed.

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- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional CISM or counseling services are needed.

1060.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Department Liaison, Survivor Support Liaison and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include, but are not limited to:

- (a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
- (b) Completing funeral notification to other law enforcement agencies.
- (c) Coordinating the funeral activities of the Department, including, but not limited to the following:
 1. Honor Guard
 - (a) Casket watch
 - (b) Color guard
 - (c) Pallbearers
 - (d) Bell/rifle salute
 2. Bagpipers/bugler
 3. Uniform for burial
 4. Flag presentation
 5. Last radio call
- (d) Briefing the Chief of Police and command staff concerning funeral arrangements.
- (e) Assigning an officer to remain at the family home during the viewing and funeral.
- (f) Arranging for transportation of the survivors to and from the funeral home and interment site using department vehicles and drivers.

1060.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Milwaukie Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Outside Agency Assistance Policy.

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1060.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and assist them in applying for benefits. Responsibilities of the Benefits Liaison include, but are not limited to:

- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:
 - 1. Public Safety Officers' Benefits (PSOB) Programs.
 - 2. Public Safety Officers' Educational Assistance (PSOEA) Program.
 - 3. Social Security Administration.
 - 4. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits.
 - 1. Public Safety Memorial Fund (ORS 243.950 et seq.)
 - 2. Education benefit (ORS 348.270)
 - 3. Life insurance (ORS 243.025)
 - 4. Death benefit (ORS 238.395; ORS 238A.230)
- (d) Researching and assisting survivors with application for other survivor benefits such as:
 - 1. Private foundation survivor benefits programs.
 - 2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by police associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
 - 1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.
- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

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1060.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
 - 1. Paying survivors' travel costs if authorized.
 - 2. Transportation costs for the deceased.
 - 3. Funeral and memorial costs.
 - 4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

1060.7 PUBLIC INFORMATION OFFICER

In the event of a line-of-duty death, the department's PIO should be the department's contact point for the media. As such, the PIO should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that department members are instructed to direct any media inquiries to the PIO.
- (c) Prepare necessary press releases.
 - 1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
 - 2. Ensure that important public information is disseminated, such as information on how the public can show support for the Department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's survivors with media inquiries.
 - 1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to department members, other agencies and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

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The identity of deceased members should be withheld until the member's survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should ensure that media are notified when survivor notifications have been made.

1060.8 DEPARTMENT CHAPLAIN

The Department chaplain may serve a significant role in line-of-duty deaths. His/her duties may include, but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

1060.9 INVESTIGATION OF THE INCIDENT

The Chief of Police shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

1060.10 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL

The Chief of Police may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty.

1060.11 NON-LINE-OF-DUTY DEATH

The Chief of Police may authorize certain support services for the death of a member not occurring in the line of duty.

Lactation Break Policy

1061.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to members desiring to express breast milk for the member's infant child.

1061.2 POLICY

It is the policy of this department to provide reasonable break time and appropriate facilities to accommodate any member desiring to express breast milk for her nursing child 18 months or younger in compliance with state law and the Fair Labor Standards Act (29 USC § 207 and ORS 653.077).

1061.3 LACTATION BREAK TIME

A rest period should be permitted each time the member has the need to express breast milk (29 USC § 207; OAR 839-020-0051). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the member's regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid.

Members desiring to take a lactation break shall notify LOCOM or a supervisor prior to taking such a break and such breaks may be reasonably delayed if they would seriously disrupt department operations.

Once a lactation break has been approved, the break should not be interrupted except in emergency or exigent circumstances.

1061.4 PRIVATE LOCATION

The Department will make reasonable efforts to provide lactating members with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from coworkers and the public (29 USC § 207).

Members occupying such private areas shall either secure the door or otherwise make it clear that the area is occupied with a need for privacy. All other members should avoid interrupting a lactating member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

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1061.5 STORAGE OF EXPRESSED MILK

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member's shift ends.

Attachments

Chokeholds.pdf

Chokehold: This is defined as intentionally restricting the airway by applying pressure to the front of the neck or throat. The chokehold is prohibited as a defense tactics technique because it can cause unintentional injury or death.

Carotid Restraints: This is defined as intentionally restricting blood flow in the carotid arteries on either/both sides of the neck, without restricting breathing. Carotid restraints are prohibited as a defense tactics technique because it can cause unintentional injury or death.

All officers must understand the potentially fragile nature of the throat, neck and cervical spine and treat those areas accordingly. Intentionally kneeling on someone's throat, neck or cervical spine to control the person is prohibited because of the risk of unintentional injury or death.

Nothing in this policy supersedes state law or department policy on the use of deadly force.

300.3.4 USE OF FORCE TO SEIZE EVIDENCE

Officers are prohibited from using a carotid restraint or a chokehold to prevent someone from swallowing evidence or contraband due to the risk of unintentional injury or death.

de-escalation policy.pdf

For the purpose of this policy, De-escalation is defined as process, actions, or tactics, including verbal and non-verbal communication, designed to prevent, reduce or manage behaviors associated with conflict. Those behaviors can include verbal or physical agitation, aggression, or actual violence. The goal of de-escalation in police calls or interactions is to use those factors within our reasonable control to accomplish voluntary compliance or a safe resolution with the least amount of physical force possible. Time and distance are factors which we can often attempt to control to achieve the safest possible outcome. Intentionally trying not to get too close, took quick can preserve de-escalation options.

This policy recognized all life is sacred and is consistent with our ultimate goal to protect and preserve life. Factors which must be considered are the safety of innocent citizens or victims exposed to the situation, the safety of the officers asked to respond to it and the safety of the subject of the call. When there is immediate risk to innocent citizens, officers may be required to take decisive action more quickly. The decision of what actions to take should always take into consideration de-escalation options and properly balance the risk to all involved. This policy also recognizes the subject of a call or interaction can eliminate some of our options and we do not maintain sole control of these factors in rapidly evolving and complicated law enforcement interactions.

Where feasible, all law enforcement officers must determine whether an individual's failure to comply with an order is the result of one of the following factors (***Seattle PD Policy- link from joincampaignzero.com***):

- Medical conditions;
- Mental impairment;
- Developmental disability
- Physical limitation
- Language barrier
- Drug interaction
- Behavioral crisis
- Other factors beyond the individual's control

After evaluating whether the individuals failure to comply with an order is based on one of the factor's listed above, the law enforcement officer must then determine whether physical force, and what level of physical force, is necessary and appropriate to resolve the situation in a safe manner.

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