

# West Linn Police Department

## West Linn PD Policy Manual

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### **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.

# West Linn Police Department

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### **WEST LINN POLICE DEPARTMENT MISSION**

#### **Mission.**

The Mission of the West Linn Police Department is to protect and serve the community of West Linn professionally and compassionately. We are committed to earning trust and increasing our accountability through transparent policies and unbiased practices.

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## **Chapter 1 - Law Enforcement Role and Authority**

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the West Linn Police Department to perform their functions based on established legal 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 ORS 161.015. Peace officer authority extends to any place in the State of Oregon.

#### 100.2.1 AUTHORITY TO ARREST

Pursuant to ORS 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 ORS 133.310(1), whether or not such crime was committed within the geographical area of the peace officer's employment, and the peace officer may make the 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 ORS 161.235, ORS 161.239, and ORS 161.245.
- (e) In order to make an arrest, a peace officer may enter premises, through either consent or a valid court issued order, in which the peace officer has probable cause to believe the person to be arrested to be present.
- (f) If the peace officer is denied entry to a premises in which the peace officer has probable cause to believe the person to be arrested is present, the peace officer may petition the court for an order to enter and search. If granted, the peace officer may enter the premises, and by a breaking, if necessary.
- (g) A person may not be arrested for a violation except as provided by ORS 153.039 and ORS 810.410.

### 100.3 CONSTITUTIONAL REQUIREMENTS

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



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#### *Law Enforcement Authority*

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##### **100.4 POLICY**

It is the policy of the West Linn Police Department to limit its members to only exercise the authority granted to them by law.

Officers are encouraged to use sound discretion in the enforcement of the law. This department does not tolerate abuse of law enforcement authority.

##### **100.5 INTERSTATE PEACE OFFICER POWERS**

Peace officer powers may be extended to other states:

- (a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.
- (b) When an officer enters California, Idaho or Nevada in fresh pursuit of a person who the officer has probable cause to believe has committed a felony (Penal Code § 852.2 (California); Idaho Code 19-701 (Idaho); NRS 171.158 (Nevada)).
- (c) When an officer enters Washington while in pursuit of a person the pursuing officer has probable cause to believe has committed a felony; or violation related to driving while intoxicated, driving while under the influence of drugs or alcohol, driving while impaired or reckless driving (RCW 10.89.010).

Whenever an officer makes an arrest in California, Idaho, Nevada or Washington, the officer shall take the offender to a magistrate or judge in the county where the arrest occurred as soon as practicable (Penal Code § 852.3; Idaho Code 19-702; NRS 171.158; RCW 10.89.020).

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## Public Safety Certification

### 102.1 PURPOSE AND SCOPE

This policy outlines certain state certification and training requirements for Department members.

### 102.2 BASIC CERTIFICATION

The Department of Public Safety Standards and Training requires that all sworn law enforcement officers and dispatchers employed within the State of Oregon receive certification within 18 months of appointment. Corrections officers are required to receive certification within 12 months of appointment (OAR 259-008-0060). In addition to their Basic Police Certification, officers must maintain certifications in the Law Enforcement Data System (LEDS), and First Aid.

### 102.3 SUPERVISORS AND MANAGERS

In addition to basic certification, supervisors and mid-level managers are required to complete the supervision course or middle management course, respectively, within 12 months of appointment unless a time extension is granted by DPSST (OAR 259-008-0025). Supervisors and managers should also seek the appropriate level of certification (OAR 259-008-0060).

### 102.4 MAINTENANCE OF CERTIFICATION

In order to maintain certification, all active law enforcement officers and dispatchers are required to meet on-going training requirements as specified in OAR 259-008-0064 or OAR 259-008-0065.

Active police 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.

### 104.2 LAW ENFORCEMENT CODE OF ETHICS

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

### 104.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. The form of oath should be as follows:

"I, (state name), do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Oregon, and the laws therefore and rules and regulations of the West Linn Police Department, and I will faithfully, honestly and impartially discharge the duties of (position about to assume) during my continuance therein, to the best of my ability, so help me God."

If a member is opposed to taking an oath, he/she shall be permitted to substitute the word "affirm" for the word "swear," and the words "so help me God" may be omitted.

#### 104.3.1 MAINTENANCE OF RECORDS

The oath of office shall be filed in accordance with the established records retention schedule.

#### 104.3.2 CRIMINAL JUSTICE CODE OF ETHICS

All members of the West Linn Police Department are required to subscribe and adhere to the Criminal Justice Code of Ethics as presented in the introduction to this Policy Manual.

### 104.4 POLICY

It is the policy of the West Linn Police Department that, when appropriate, department members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties.

## Chief Executive Officer

### **105.1 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 West Linn Police Department, who is required to exercise the powers and duties of the office as prescribed by state law (OAR 259-008-0060).

### **105.2 POLICY**

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

### **105.3 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.

# Policy Manual

## 106.1 PURPOSE AND SCOPE

The manual of the West Linn Police Department is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, rules and guidelines of this department. All members are to conform to the provisions of this manual.

All prior and existing manuals, orders and regulations that are in conflict with this manual are rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual.

### 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 West Linn 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 West Linn Police Department reserves the right to revise any policy content, in whole or in part.

## 106.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement 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 reasonably available at the time of any incident.

### 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 Interim Directives which shall modify those provisions of the manual to which they pertain. Interim 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:

- Chief of Police
- Division Commanders (Captains)
- Assistant to the Chief of Police
- Sergeants

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#### *Policy Manual*

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The staff shall review all recommendations regarding proposed changes to the manual at staff meetings.

#### 106.2.3 OTHER PERSONNEL

All Department employees suggesting revision of the contents of the Policy Manual shall forward their suggestion, in writing, through channels to their Division Commander who will consider the recommendation and forward to staff.

#### 106.3 AUTHORITY

The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue Interim Directives, which shall modify those provisions of the manual to which they pertain. Interim Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

#### 106.3.1 ACCEPTABLE ABBREVIATIONS

The following abbreviations are acceptable substitutions in the manual:

- Interim Directive may be abbreviated as "ID."
- 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.

**CFR** - Code of Federal Regulations

**Child Welfare** - Department of Human Services, Child Welfare.

**City**-The City of West Linn

**Department/WLPD** - The West Linn Police Department

**DHS** - Department of Human Services

**DMV** - The Department of Motor Vehicles

**Employee/Personnel** - Any person employed by the Department.

**K-9** - Canine

**Juvenile** - Any person under the age of 18 years.

**Manual** - The West Linn Police Department Policy Manual

**May** - Indicates a permissive, discretionary or conditional action.

**Member** - Any person who is employed or appointed by the West Linn 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 West Linn 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.

**USC** - United States Code

#### 106.3.3 DISTRIBUTION OF MANUAL

A computerized version of the Policy Manual will be made available on the Department network for access by all employees. The computerized version will be limited to viewing and printing of specific sections. No changes shall be made to the electronic version without authorization from the Chief of Police.

#### 106.4

##### 106.4.1 REVISIONS TO POLICIES

All employees are responsible for keeping abreast of all Policy Manual revisions. All changes to the Policy Manual will be posted on the Department Intranet 'P' drive under the title Recent Policy Manual Revisions. The Administrative Division Commander, or his designee, will forward revisions to Policy Manual as needed to all personnel via electronic mail. Each employee shall acknowledge receipt by return email, review the revisions and seek clarification as needed.

Each division commander will ensure that employees under his/her command are aware of any Policy Manual revisions.

##### 106.5 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Interim Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

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#### *Policy Manual*

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#### **106.6 PERIODIC REVIEW OF THE POLICY MANUAL**

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

#### **106.7 REVISIONS TO POLICIES**

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

Each Division Captain will ensure that members under his/her command are aware of any Policy Manual revision.

All department members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Division Captains, who will consider the recommendations and forward them to the command staff as appropriate.



## **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 West Linn Police Department. There are two divisions in the Police Department as follows:

- Administration/ Investigations Division
- Patrol Operations Division

#### 200.2.1 ADMINISTRATION/ INVESTIGATION DIVISION

The Administration/ Investigations Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for the Division. The Administration/ Investigations Division consists of the Records Unit, Detective Unit, and Property Evidence Unit.

#### 200.2.2 PATROL OPERATIONS DIVISION

The Patrol Division is commanded by a LieutenantCaptain 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, K-9, School Resource Officer, and Community Services Officers.

### 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 may 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) Captain
- (b) Lieutenant
- (c) 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

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#### *Organizational Structure and Responsibility*

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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**

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 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.

## Jurisdiction

### **201.1 JURISDICTION**

Establishes the jurisdiction of the West Linn Police Department.

#### **201.1.1 PHYSICAL JURISDICTION**

All areas within the boundaries of the City are within the territorial jurisdiction of the West Linn Police Department. The department may, however, on its own initiative, operate outside the boundaries of the City to the fullest extent permitted by law.

### **201.2 CONCURRENT JURISDICTION**

The Department shall have primary jurisdiction within the City limits. The Clackamas County Sheriff shares concurrent jurisdiction within the boundaries of the City. The Sheriff's Office has secondary jurisdiction with the exception of waterways wherein they have primary jurisdiction. The Oregon State Police has primary jurisdiction on the I-205 Freeway.

Patrol and primary law enforcement within the City is the responsibility of the Department. Although deputies of the Sheriff's Office have law enforcement responsibilities wherever they may travel within the County, their patrol activities focus in the areas of the Sheriff's Office's primary jurisdiction throughout the unincorporated areas of the County. The Sheriff's Office and the Oregon State Police provide patrol, law enforcement assistance, and backup to all enforcement agencies within the County upon request and in compliance with mutual aid agreements.

## Supervision and Command

### 203.1 PURPOSE AND SCOPE

Establishes the responsibility and accountability for the supervisory and command ranks within the Department.

#### 203.1.1 SUPERVISION AND COMMAND

Successful police service depends on the level of performance of its police officers. The level and efficiency of such performance is in large measure determined by the quality of supervision received. Supervision can generally be defined as planning the work of personnel in an orderly manner, delegating authority and responsibility for the efficient accomplishment of tasks and following up task assignments to assure satisfactory completion. To this end, the following serve as general supervisory guidelines.

**Chief of Police** - The Chief of Police has authority and responsibility for the management, direction, and control of the operations and administration of the Department. The Chief of Police will designate a person to act as Chief in his/her absence. Should the Chief be unable to do so, the order of precedence shall be: Captain, on-duty Sergeant, and on-call Sergeant. However, this procedure does not infringe the City Manager's right to appoint a Chief or Acting Chief of Police.

**Captains** - Captains are Division Commanders and are responsible and accountable for all aspects of their command. Within policy guidelines and legal constraints, a Captain has authority to direct and coordinate assigned personnel and allocate resources to achieve organizational goals and objectives. Captains rely on policy, directives, training and personal initiative to guide them in achieving the highest possible level of performance.

**Sergeants** - Sergeants are the first level of supervision and have the responsibility to guide, direct, motivate and train those personnel under their supervision.

**Officers in Charge** - Officers in Charge (OIC) are designated by the Chief of Police, and when serving in that capacity have limited authority. OIC's will only be used when a patrol sergeant is not available. Permission from the Patrol Division commander must first be obtained prior to using a non-designated officer as an OIC.

Command and control is inherent in and appropriate to all levels of a police organization. When two or more officers are dispatched to or are present at any activity, the primary unit assigned by radio to respond to the complaint shall assume control of the situation until it is concluded or until properly relieved by a superior officer.

The arrival of a more senior officer shall not be considered as an implicit assumption of command unless such assumption is communicated by the senior officer.

The presence of a Sergeant may be requested by the officer in charge of the situation and, upon arrival, the Sergeant will evaluate the scene and may assume command as the Sergeant deems necessary. The Sergeant may further request the presence of a command-level officer at the scene as the situation may dictate.

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#### *Supervision and Command*

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A Patrol supervisor will respond and take command of all situations involving civil unrest, injury to or by a police officer and damage to departmental or City equipment.

## Interim Directive

### 204.1 PURPOSE AND SCOPE

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

#### 204.1.1 INTERIM DIRECTIVE PROTOCOL

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

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

Interim Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year. For example, 09-01 signifies the first Interim Directive for the year 2009.

### 204.2 RESPONSIBILITIES

It shall be the responsibility of each department member to review all interim directives once published, and to update any manuals they possess.

#### 204.2.1 STAFF

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

Staff shall consist of Sergeants, the Assistant to the Chief of Police, Captains, and the Chief of Police.

#### 204.2.2 CHIEF OF POLICE

The Chief of Police shall issue all Interim Directives.

### 204.3 ACCEPTANCE OF INTERIM DIRECTIVES

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

## Disaster 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 West Linn Emergency Operations Plan.

### 206.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Operations Plan can be activated in a number of ways. The City has shared responsibility for emergency management, including the Police Department, and has designated the Assistant to the City Manager as the City's Emergency Manager. The Emergency Manager, Chief of Police or the highest ranking official on duty may activate the Emergency Operations Plan in response to a major emergency.

#### 206.2.1 RECALL OF PERSONNEL

In the event that the Emergency Operations Plan is activated, all employees of the West Linn Police Department are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief of Police or the authorized designee.

Failure to promptly respond to an order to report for duty may result in discipline.

### 206.3 LOCATION OF MANUALS

The Emergency Operations Manual is available for all employees in electronic format on the City's network. A hard copy is available in the Records Unit. All supervisors should familiarize themselves with the Emergency Operations Plan and what roles police personnel will play when the plan is implemented.

### 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 Chief of Police or the authorized designee will 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.



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## *Disaster Plan*

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### **206.6 TRAINING**

Annual training for all personnel will be conducted on the disaster plan for the City of West Linn.

## Training

### 208.1 PURPOSE AND SCOPE

This policy establishes general guidelines for how training is to be identified, conducted, and documented. This policy is not meant to address all specific training endeavors or identify every required training topic.

### 208.2 POLICY

The Department shall administer a training program that will meet the standards of federal, state, local, and the Oregon Department of Public Safety Standards and Training (DPSST) training requirements. It is a priority of this department to provide continuing education and training for the professional growth and development of its members.

### 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 department members.
- (c) Provide for continued professional development of department members.
- (d) Ensure compliance with DPSST rules and regulations concerning law enforcement training.

### 208.4 TRAINING PLAN

A training plan will be developed and maintained by the Training Coordinator. It is the responsibility of the Training Coordinator 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
- Trauma-informed practices (ORS 181A.445)

#### 208.4.1 GOVERNMENT-MANDATED TRAINING

The following lists, while not all inclusive, identify training that is required under state and federal laws and regulations. Additional required training may be identified in individual policies.

- (a) Federally mandated training:
  1. National Incident Management System training
- (b) State-mandated training:

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#### *Training*

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1. Candidates hired for officer positions shall commence the basic training course within 90 days of employment. Such candidates shall complete the basic training course and the field training manual within 18 months of employment. The basic law enforcement training requirement may be waived if the candidate meets the criteria established by DPSST (OAR 259-008-0025).
2. During the three-year maintenance schedule, each officer shall (OAR 259-008-0065):
  - (a) Maintain adult and child CPR certification.
  - (b) Maintain first aid certification.
  - (c) Complete a minimum of 84 hours of West Linn Police Department-approved training, which shall include:
    1. A minimum of 8 hours of firearms or use of force training annually.
    2. A minimum of 1 hour of ethics training annually.
    3. A minimum of 3 hours of mental health/crisis intervention training.
    4. A minimum of 2 hours of airway and circulatory anatomy and physiology training.
    5. A minimum of 3 hours of equity training as prescribed by DPSST.

#### **208.5 TRAINING COMMITTEE**

The Training Coordinator may establish a Training Committee, on a temporary or as-needed basis, which will assist with identifying training needs of the Department.

The Training Committee should be composed of at least three members, with the senior ranking member of the committee acting as the chairperson. Committee members should be selected based on their abilities at post-incident evaluation and at assessing related training needs. The Training Coordinator may remove or replace members of the committee at their discretion.

The Training Committee should review certain incidents to determine whether training would likely improve future outcomes or reduce or prevent the recurrence of the undesirable issues related to the incident. Specific incidents the Training Committee should review include but are not limited to:

- (a) Any incident involving the death or serious injury of a member.
- (b) Incidents involving a high risk of death, serious injury, or civil liability.
- (c) Incidents identified by the Department as appropriate to review to identify possible training needs.

The Training Committee should convene on a regular basis as determined by the Training Coordinator to review the identified incidents. The committee shall determine by consensus whether a training need exists and then submit written recommendations of its findings to the Training Coordinator. The recommendation should not identify specific facts of any incidents, such as identities of members involved or the date, time, and location of the incident, but should focus on the type of training being recommended.

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The Training Coordinator will consider the recommendations of the committee and determine what training should be addressed, taking into consideration the mission of the Department and available resources. Training recommendations as determined by the Training Coordinator shall be submitted to the command staff for review.

#### **208.6 TRAINING ATTENDANCE**

- (a) All members assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences should be limited to:
  - 1. Court appearances.
  - 2. Previously approved vacation or time off.
  - 3. Illness or medical leave.
  - 4. Physical limitations preventing the member's participation.
  - 5. Emergency situations or department necessity.
- (b) Any member who is unable to attend training as scheduled, shall notify the member's supervisor as soon as practicable but no later than one hour prior to the start of training and shall:
  - 1. Document the member's absence in a memorandum to the member's supervisor.
  - 2. Make arrangements through the member's supervisor and the Training Coordinator to attend the required training on an alternate date.

#### **208.7 TRAINING COSTS**

For purposes of this policy, the following definitions are provided (ORS 181.695):

**Original employing governmental agency** - The governmental agency that first employs an employee in a position that requires training.

**Training costs** - The expenses paid for by an employing governmental agency that include the cost of salary and benefits paid to an employee during training, the cost of salary and benefits paid to another employee to cover the workload of an employee in training and the cost of initial training courses required for employment.

Whenever statutorily required, an officer who voluntarily leaves employment with his/her original employing governmental agency and is subsequently employed by the West Linn Police Department in a position that requires the same training as required for the position with the original employing governmental agency, West Linn Police Department shall reimburse the original employing governmental agency for training costs incurred by the original employing governmental agency in accordance with the reimbursement schedule in ORS 181.695(3).

It is the responsibility of the Training Coordinator to identify when such reimbursements are required, and ensure that payment procedures are followed. If West Linn Police Department is the original employing agency in accordance with the definition contained in ORS 181.695(1)(a), the

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Chief of Police or designee will determine whether reimbursement will be sought from the agency which hired the officer.

In all issues of employment it is the policy of this department to take reasonable steps to retain competent employees.

#### **208.8 DAILY TRAINING BULLETINS**

The Lexipol Daily Training Bulletins (DTBs) are contained in a web-accessed system that provides training on the West Linn 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 Training Coordinator.

Members assigned to participate in DTBs shall only use login credentials assigned to them by the Training Coordinator. Members should not share their password with others and should frequently change their password to protect the security of the system. After each session, members should log off 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.

Members 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. Members should not allow uncompleted DTBs to build up over time, and may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the DTB system can be accessed from any internet active computer, members 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 those under their command to ensure compliance with this policy.

#### **208.9 TRAINING MANAGER**

The Chief of Police shall designate a Training Coordinator who is responsible for developing, reviewing, updating, and maintaining the department training plan so that required training is completed. The Training Coordinator should review the training plan annually.

#### **208.10 TRAINING RECORDS**

The Training Coordinator is responsible for the creation, filing, and storage of all training records. Training records shall be retained in accordance with the established records retention schedule.

## 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 Division 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.

## **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 DEPARTMENT E-MAIL AND MEMORANDUMS**

Department E-mail 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. The Chief of Police may issue memoranda to department personnel from time to time for the purpose of disseminating information to the members.

### **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 Division Captain.

## 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 three regular sworn members on duty whenever possible. Patrol supervisors will ensure that at least one supervisor or officer-in-charge is deployed during each shift. The Patrol Commander may allow deviations to minimum staffing levels as necessary.

#### 216.2.1 SUPERVISION DEPLOYMENTS

In order to accommodate training, vacations, sick time, and other unforeseen circumstances, an officer, designated as an 'Officer In Charge' may be used as a patrol supervisor in accordance with section 401.1.



## Retiree Concealed Firearms

### 220.1 PURPOSE AND SCOPE

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

### 220.2 POLICY

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

### 220.3 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.

#### 220.3.1 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 West Linn 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.

#### 220.3.2 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.

#### **220.4 FORMER OFFICER RESPONSIBILITIES**

A former officer with a card issued under this policy shall immediately notify the Shift Supervisor 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.

##### 220.4.1 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.

#### **220.5 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.

#### 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 serious physical 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 him/herself 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.

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 INTERVENE 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, intervene to prevent the use of unreasonable force (ORS 181A.681).

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).

### 300.3 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.

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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.

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 the 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 USE OF FORCE - JUSTIFICATION

An officer is justified in using force upon another person only when and to the extent that the officer reasonably believes it necessary (ORS 161.233):

- (a) To make a lawful arrest or to prevent the escape from custody of an arrested person; or
- (b) For self-defense or to defend a third person from an imminent threat of physical injury.

#### 300.3.2 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 (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.

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- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

#### 300.3.3 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 person can comply with the direction or orders of the officer.
- (c) Whether the person 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.

#### 300.3.4 CAROTID CONTROL HOLD

A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following:

- (a) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.

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- (b) Any individual who has had the carotid control hold applied, regardless of whether the individual was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.
- (c) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.
- (d) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (e) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

#### **300.4 DEADLY FORCE APPLICATIONS**

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify themselves 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.

However, an officer should not use deadly force against a person whose actions are a threat solely to themselves or property.

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 are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force.

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 imminent 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.

##### **300.5 REPORTING THE USE OF FORCE**

Any use of force by a member of this department 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 he/she 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 may require the completion of additional report forms, as specified in department policy, procedure or law.

##### **300.5.1 NOTIFICATION TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following all applications of force or when a subject alleges force was used on them. Absent emergency circumstances, the on-duty supervisor shall respond to the scene subsequent to any application of force or when a subject alleges force was used on them.

##### **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



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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 AND OIC RESPONSIBILITY**

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) 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.
- (b) Ensure that any injured parties are examined and treated.
- (c) 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:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  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.
- (d) 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.
- (e) Identify and attempt to obtain statements from any witnesses not already included in related reports.
- (f) Notify the Captain and/or Chief of Police, as soon as practicable, upon any serious injury to an officer or any serious injury to a subject.
- (g) Review and approve all related reports.
- (h) Determine if there is any indication that the subject may pursue civil litigation.
  1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

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- (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.

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.

#### **300.7.1 SHIFT SUPERVISOR RESPONSIBILITY**

The Shift Supervisor 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.

#### **300.7.2 ANNUAL ANALYSIS**

During the first calendar quarter of each year, the Captain will ensure that an annual analysis will be conducted on all Use of Force incidents from the prior calendar year. The report will contain a brief synopsis of each Use of Force incident. The report will contact any areas of development possibly needed and/or possible Use of Force policy modifications. The report will be submitted to Chief of Police for review.

#### **300.8 TRAINING**

Officers shall receive annual training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, officers should receive periodic training on guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

## DUTY TO INTERVENE AND REPORT

### 301.1 PURPOSE AND SCOPE

Oregon House Bill 4205, as written and enrolled in 2020, limited the "duty to intervene" mandate to police officers and reserve officers. The West Linn Police Department sees fit to extend this "duty to intervene" mandate to all employees, as we all share the responsibility to stop misconduct wherever and whenever it occurs.

As such, any employee, without regard to rank or assignment, shall intervene to prevent or stop another employee engaged in any act the intervening employee knows or reasonably should know is misconduct, unless the intervening employee cannot intervene safely.

#### 301.1.1 DEFINITIONS

Definitions related to this policy include:

**Misconduct:**

- A. Unjustified or excessive force that is objectively unreasonable under the circumstances or in violation of the Use of Force policy for the West Linn Police Department.
- B. Sexual harassment or sexual misconduct.
- C. Discrimination against a person based on race, religion, sex, sexual orientation, national origin, disability or age.
- D. A crime.
- E. A violation of the minimum standard for physical, emotional, intellectual and moral fitness for public safety personnel established under ORS 181A.410.

### 301.2 REPORTING REQUIREMENTS

- A. Any employee who witnesses another employee engaging in misconduct shall report the misconduct to a supervisor as soon as practicable, but no later than 72 hours after witnessing the misconduct.
- B. Failure of an employee to intervene or report any witnessed misconduct is grounds for disciplinary action against the witnessing employee.

### 301.3 DEPARTMENT RESPONSIBILITY

The West Linn Police Department may not discharge, demote, suspend, or in any manner discriminate or retaliate against any employee with regard to promotion, compensation or other terms, conditions, or privileges of employment for the reason that employee intervened or reported any witnessed misconduct.

## Use of Force Review Boards

### 302.1 PURPOSE AND SCOPE

This policy establishes a process for the West Linn Police Department to review the use of force by its employees.

This review process shall 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 POLICY

The West Linn Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

### 302.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

### 302.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to another.

The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use.

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

The Administrative Services Division Commander will convene the Use of Force Review Board as necessary. It will be the responsibility of the Division Commander or supervisor of the involved employee to notify the Administrative Services Division Commander of any incidents requiring board review. The involved employee's Division Commander or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

#### 302.4.1 COMPOSITION OF THE BOARD

The Administrative Services Commander should select five Use of Force Review Board members from the following, as appropriate:

- Command Representative
- Training Coordinator
- Supervisor

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- A peer officer
- A sworn peace officer from an outside law enforcement agency

The senior ranking command representative who is not in the same division as the involved employee will serve as chairperson.

#### 302.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, the decision not to file criminal charges or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

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

Any questioning of the involved employee conducted by the board will be in accordance with the department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

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

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief of Police.

The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be forwarded to the involved employee's Division Commander for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

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At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police.

## 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 West Linn 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 West Linn 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**

Juveniles will be handcuffed while in custody, and while being transported, unless an officer has articulable reasons not to do so.

##### **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.

Based on requirements listed in Oregon H.B. 2513, officers shall immediately request emergency medical services for any person in restraints who is experiencing an airway or circulatory crisis if:

- it is tactically feasible to request emergency medical services; and
- the officer has access to communications

##### **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, 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.

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 his/her 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.

#### **306.9 EXCITED DELIRIUM**

Excited Delirium is a Chaotic Rage State in which affected persons may exhibit extreme agitation, intense and on-going verbal outbursts, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called excited delirium), may likely require a protracted physical encounter with multiple officers to be brought under control, and subsequently may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies.

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Officers who reasonably suspect a medical emergency involving Excited Delirium shall request medical assistance as soon as practicable and have medical personnel stage away if appropriate. Officers should request additional cover officers, utilizing outside agencies if necessary, to ensure that physical control of the suspect is attempted with no less than 4 officers.

If practicable and whenever possible, officers should contain the suspect and not attempt physical control or restraint until EMS has arrived at the scene and is staged to enter. This will minimize the time the suspect may be in the maximum restraint hobble position before medical assistance is rendered.

Once the suspect is physically controlled, the suspect shall be examined and treated by the on-scene medical personnel before any further action is taken.

#### **306.10 TRAINING**

Subject to available resources, the Training Coordinator should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.
- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

## Control Devices and Techniques

### 308.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

### 308.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the West Linn Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy. The Chief of Police may also authorize other positions or individual Department members to use specific control devices.

### 308.3 ISSUING, CARRYING, AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain, or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

### 308.4 RESPONSIBILITIES

#### 308.4.1 SHIFT SUPERVISOR RESPONSIBILITIES

The Shift Supervisor may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

#### 308.4.2 RANGEMASTER RESPONSIBILITIES

The Rangemaster shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Rangemaster or the designated instructor for a particular control device. The inspection shall be documented.

### 308.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

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When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

##### **308.5.1 OLEORESIN CAPSICUM (OC) GUIDELINES**

As with other control devices, oleoresin capsicum (OC) spray may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. 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.

**OC SPRAY:** Uniformed personnel carrying OC spray shall carry the device in an approved holster on the officer's equipment belt, external vest carrier, or drop leg Taser holster. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor. Other methods of carry for uniformed, plainclothes and non-field personnel may be approved at the discretion of the Chief of Police or his designee.

**TREATMENT FOR OC EXPOSURE:** Persons who have been sprayed with or otherwise have been affected by the use of OC spray should, as soon as practicable, be provided with clean water to cleanse the affected areas. Those persons whom complain of further severe effects shall be examined by appropriate medical personnel.

##### **308.6 KINETIC ENERGY PROJECTILE GUIDELINES**

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

##### **308.6.1 DEPLOYMENT AND USE**

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines 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.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

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

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- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

#### 308.6.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider such factors as:

- (a) Distance and angle to target.
- (b) Type of munitions employed.
- (c) Type and thickness of subject's clothing.
- (d) The subject's proximity to others.
- (e) The location of the subject.
- (f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device 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 give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

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, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others (ORS 181A.708).

#### 308.6.3 SAFETY PROCEDURES

Shotguns specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect the shotgun and projectiles at the beginning of each shift to ensure that the shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not in use, the shotgun will be unloaded and properly and securely stored in the vehicle. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

#### **308.7 TRAINING FOR CONTROL DEVICES**

The Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained and/or recertified biennially.

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- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

#### **308.8 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES**

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

#### **308.9 CROWD CONTROL GUIDELINES**

OC, administered by canister, should not be used for crowd control except in circumstances that constitute a riot. A riot is when a person commits the crime of riot if while participating with five or more other persons, the person engages in tumultuous and violent conduct and thereby intentionally or recklessly creates a grave risk of causing public alarm (ORS 166.015; 2020 Oregon Laws, c.8,1).

Prior to the deployment of OC under these circumstances, officers shall, in the following order (2020 Oregon Laws, c.8.1):

- (a) Announce the intent to use OC,
- (b) Allow for sufficient time for individuals to evacuate the area, and
- (c) Announce for a second time, immediately before usage, the intent to use OC.

## Conducted Energy Device

### 309.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the conducted energy device (CED).

### 309.2 POLICY

The CED is used in an attempt to control a violent or potentially violent individual. The appropriate use of such a device may result in fewer serious injuries to officers and suspects.

### 309.3 ISSUANCE AND CARRYING CEDS

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

The Lead Taser Instructor should keep a log of issued CED devices and the serial numbers of cartridges/magazines issued to members.

CEDs 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 shall only use the CED and cartridges/magazines that have been issued by the Department. Cartridges/magazines should not be used after the manufacturer's expiration date.

Uniformed officers who have been issued the CED shall wear the device in an approved holster.

Officers who carry the CED while in uniform shall carry it in a holster on the side opposite the duty weapon.

- (a) All CEDs shall be clearly distinguishable to differentiate them from the duty weapon and any other device.
- (b) Officers should not hold a firearm and the CED at the same time.

Non-uniformed officers may secure the CED in a concealed, secure location in the driver's compartment of their vehicles.

#### 309.3.1 USER RESPONSIBILITIES

Officers shall be responsible for ensuring that the issued CED is properly maintained and in good working order. This includes a function test and battery life monitoring, as required by the manufacturer, and should be completed prior to the beginning of the officer's shift.

CEDs that are damaged or inoperative, or cartridges/magazines that are expired or damaged, shall be returned to the Lead Taser Instructor for disposition. Officers shall submit documentation stating the reason for the return and how the CED or cartridge/magazine was damaged or became inoperative, if known.



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#### **309.4 VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the CED 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 CED may be deployed.

If, after a verbal warning, an individual fails 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, activate any warning on the device, which may include display of the electrical arc, an audible warning, or the laser in a further attempt to gain compliance prior to the application of the CED. The laser should not be intentionally directed into anyone's eyes.

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 CED in the related report.

#### **309.5 USE OF THE CED**

The CED has limitations and restrictions requiring consideration before its use. The CED should only be used when its operator can safely deploy the device within its operational range. Although the CED may be effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

If sufficient personnel are available and can be safely assigned, an officer designated as lethal cover for any officer deploying a CED may be considered for officer safety.

##### **309.5.1 APPLICATION OF THE CED**

The CED may be used when the circumstances reasonably perceived by the officer at the time indicate that such application reasonably appears necessary to control a person who:

- (a) Is violent or is physically resisting.
- (b) 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, themselves, or others.

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

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

##### **309.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the CED 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 potential risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.

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- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals known to have been recently sprayed with a flammable chemical agent or who are otherwise known to be in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity is likely to result in collateral injury (e.g., falls from height, located in water, operating vehicles).

Any CED capable of being applied in the drive-stun mode (i.e., direct contact without probes as a primary form of pain compliance) 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.

#### 309.5.3 TARGETING CONSIDERATIONS

Recognizing that the dynamics of a situation and movement of the subject may affect target placement of probes, when practicable, officers should attempt to target the back, lower center mass, and upper legs of the subject, and avoid intentionally targeting the head, neck, area of the heart, or genitals. If circumstances result in one or more probes inadvertently striking an area outside of the preferred target zones, the individual should be closely monitored until examined by paramedics or other medical personnel.

#### 309.5.4 MULTIPLE APPLICATIONS OF THE CED

Once an officer has successfully deployed two probes on the subject, the officer should continually assess the subject to determine if additional probe deployments or cycles reasonably appear necessary. Additional factors officers may consider include but are not limited to:

- (a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.
- (b) Whether the probes are making proper contact.
- (c) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (d) Whether verbal commands or other options or tactics may be more effective.

Given that on certain devices (e.g., TASER 10™) each trigger pull deploys a single probe, the officer must pull the trigger twice to deploy two probes to create the possibility of neuro-muscular incapacitation.

#### 309.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should take appropriate actions to control and restrain the individual as soon as reasonably practicable to minimize the need for longer or multiple exposures to the CED. As soon as practicable, officers shall notify a supervisor any time the CED has been discharged.

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##### 309.5.6 DANGEROUS ANIMALS

The CED may be deployed against an animal if the animal reasonably appears to pose an imminent threat to human safety.

##### 309.5.7 OFF-DUTY CONSIDERATIONS

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

Officers shall ensure that CEDs 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 CED discharges in the related arrest/crime reports and the Use of Force report. Photographs should be taken of any obvious probe impact or drive-stun application sites and attached to the Use of Force report. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, audible warning, laser activation, and arcing the device, other than for testing purposes, will also be documented on the report form. Data downloads from the CED after use on a subject should be done as soon as practicable using a department-approved process to preserve the data.

##### 309.6.1 UNINTENTIONAL DISCHARGE

Officers shall notify a supervisor immediately.

#### **309.7 MEDICAL TREATMENT**

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel or officers trained in probe removal and handling should remove CED probes from a person's body. Used CED 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 CED probes, who have been subjected to the electric discharge of the device, or who sustained direct exposure of the laser to the eyes 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 CED 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 shall be transported to a medical facility for examination or medically evaluated prior to booking. If

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any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio/video 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 CED (see the Medical Aid and Response Policy).

#### **309.8 SUPERVISOR RESPONSIBILITIES**

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

A supervisor should review each incident where a person has been exposed to a CED. The device's internal logs should be downloaded by a supervisor and saved with the related arrest/crime report. The supervisor should confirm that photographs of probe sites have been taken and any witnesses have been interviewed.

#### **309.9 TRAINING**

Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial department-approved training.

Proficiency training for personnel who have been issued CEDs should occur every year and include the Annual Operator Update and Recertification from AXON. A reassessment of an officer's knowledge and/or practical skills may be required at any time, if deemed appropriate, by the Training Coordinator. All training and proficiency for CEDs will be documented in the officer's training files.

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

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

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

Application of CEDs during training could result in injuries and should not be mandatory for certification.

The Training Coordinator should include the following training:

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

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- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes to the head, neck, area of the heart, and groin.
- (e) Scenario-based training, including virtual reality training when available.
- (f) Handcuffing a subject during the application of the CED and transitioning to other force options.
- (g) De-escalation techniques.
- (h) Restraint techniques that do not impair respiration following the application of the CED.
- (i) Proper use of cover and concealment during deployment of the CED for purposes of officer safety.
- (j) Proper tactics and techniques related to multiple applications of CEDs.

#### **309.10 TESTING**

An officer approved to carry and use a TASER will retrieve a TASER from the armory at the beginning of their shift and return it at the end of their shift, unless a TASER has been issued to a specially assigned officer. An officer carrying a TASER should perform a function test prior to the start of their shift.

Axon Enterprise, Inc. recommends conducting a function test prior to the start of your shift. The function test is done to verify the energy weapon's core electronics are working properly.

A TASER 7 energy weapon can be function tested with the cartridges loaded. In fact, it is recommended you perform the test with cartridges installed to reduce stress on the energy weapon's components.

To perform a function test:

- (a) Point the energy weapon in a safe direction.
- (b) With the safety in the down (SAFE) position, press and release both Arc switches simultaneously.  
**Keep your fingers away from the front of the energy weapon.**  
The CID will display the firmware version and the battery percentage.
- (c) Shift the safety switch to the up (ARMED) position.  
The energy weapon is now in Function Test mode. The colors on the CID will be reversed as shown below—the battery and loaded cartridge icons are black, and the background is yellow.
- (d) Press either Arc switch or both Arc switches. The energy weapon will arc for five seconds.  
**Use the Arc switch, not the trigger, to perform a spark test. Pulling the trigger will deploy a loaded cartridge.**
- (e) View the arc from the top or side of the energy weapon.  
**Do not point the energy weapon at your face or have it near your face.**
  - Verify electricity is arcing across the electrodes on both sides of the firing bay.
- (f) After the 5-second cycle is over, look at the CID and verify:

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- there are no fault icons;
  - there are two cartridges present; and
  - there is adequate battery capacity.
- (g) Shift the safety switch to the down (SAFE) position.
- (h) If any of the above verifications fail, return the unit to your agency's Lead Taser Instructor for service.

## Officer-Involved Shooting

### 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.

#### 310.1.1 DEFINITIONS

**Involved officer** - An officer whose official conduct, or official order to use deadly physical force, was a cause in fact of the death of a person. As used here, "order to use deadly physical force" means an order issued to another officer to use deadly physical force in a specific incident or an order or directive establishing rules of engagement for the use of deadly physical force for a specific incident (ORS 181.789(a)).

An officer whose official conduct was not a cause in fact of the death of a person but whose official involvement in an incident in which the use of deadly physical force by an officer resulted in the death of a person (ORS 181.789(b)):

- Began before or during the use of the deadly physical force; and
- Was reasonably likely to have exposed the officer to greater stresses or trauma than other officers experienced as a result of their involvement in the incident before or during the use of the deadly physical force.

### 310.2 INVESTIGATION RESPONSIBILITY

This department abides by the Plan for Response to Deadly Force Incidents by Clackamas County Law Enforcement Agencies as established by law for investigating officer involved shootings, Annex A.

### 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 Division 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.

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#### **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 WEST LINN POLICE DEPARTMENT OFFICER\_DEPUTY WITHIN THIS JURISDICTION**

The West Linn Police Department is responsible for the criminal investigation of the suspect's actions, the civil investigation and the administrative investigation. 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 OIS Protocol in conjunction with the District Attorney's Office. The investigation team shall include at least one police officer from an outside law enforcement agency (ORS 181.789).

##### **310.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION**

The West Linn 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 Officer Involved Shooting Procedures 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 WEST LINN POLICE DEPARTMENT OFFICER\_DEPUTY 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 West Linn Police Department 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:

	<b>Criminal Investigation of Suspect(s)</b>	<b>Criminal Investigation of Officer(s)</b>	<b>Civil Investigation of</b>	<b>Administrative Investigation</b>
<b>West Linn Police Department Officer in this Jurisdiction</b>	West Linn Police Department	Police Officer Involved Shooting Procedures District Attorney's Office	West Linn Police Department Liability Team and District Attorney's Office	West Linn Police Department Administrative Commander
<b>Allied Agency's Officer in this Jurisdiction</b>	West Linn Police Department	Police Officer Involved Shooting Procedures District Attorney's Office	Involved Department and District Attorney's Office	Officer's Department



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**An officer From Agency where Officer Involved West Linn Police West Linn Police**  
**this department in incident occurred Shooting Department Civil Department**  
**Another Procedures dictated Liability Team Administrative**  
**Jurisdiction by county where Commander**  
incident occurred

### **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.
  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 publicsafetyinformation 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, the initial on scene supervisor should not attempt to order any officer to provide other than public safety information.
- (e) Provide all available information to the Shift Supervisor 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 SHIFT SUPERVISOR DUTIES**

Upon learning of an officer-involved shooting, the Shift Supervisor shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or a Division Captain.

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##### 310.5.3 NOTIFICATIONS

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

- Chief of Police
- Investigation Division Commander
- Patrol Commander
- Interagency OIS team
- District Attorney
- Departmental Public Information Officer
- Psychological/Peer support personnel
- Medical Examiner (if necessary)
- Officer representative (if requested)

All outside inquiries about the incident shall be directed to the Investigations Commander who may direct the Public Information Officer to field any inquiry.

##### 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 Chief, Division Commander's 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 absent their consent or as required by law. Moreover, no involved officer shall be subjected to contact from the media and no involved officer shall make any comments to the press unless authorized by the Chief of Police or a Division Commander.

Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

##### 310.5.5 INVOLVED OFFICERS

Once the involved officers have arrived at the station, the Shift Supervisor 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 officers (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.

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- (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 mental health professional shall be provided by the Department to each involved officer within six months after the incident, and, upon request, to any other affected officer. An involved officer must attend at least one such session (ORS 181.789).
  - 1. Interviews with a mental health professional will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
  - 2. An interview or session with a mental health professional may take place prior to the involved officer providing a formal interview or report, but the involved officers shall not be permitted to consult or meet collectively or in a group with a mental health professional prior to providing a formal interview or report.
- (e) Communications with peer counselors are confidential and may not be disclosed by any person participating in the peer support counseling session (ORS 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's, equipment and clothing (e.g., blood, fingerprints) 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. An officer who uses deadly force that results in the death of a person shall not be returned to a duty assignment that might place him/her in a situation in which he/she has to use deadly force until at least 72 hours immediately following the incident (ORS 181.789). It shall be the responsibility of the Shift Supervisor 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 shall be the responsibility of the Detective Unit supervisor to assign appropriate detective personnel to handle the investigation of related crimes in compliance with the Officer Involved Shooting Procedures. Detectives will be assigned to work

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with the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated under the direction of the District Attorney's Office.

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

#### 310.6.2 CRIMINAL INVESTIGATION

It shall be the policy of this department to utilize the District Attorney's Office to provide guidance in a criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

If available, detective personnel from this department may be assigned to "partner" with investigators from the interagency investigative team so as to not duplicate efforts in related criminal investigations.

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 shall be considered for the involved officer:

- (a) Supervisors and Administrative Division Commander personnel 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) If requested, 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 shall 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 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 coerced statements will be provided to any criminal investigators.

#### 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

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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.

#### **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 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 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 Division Commander and will be considered a confidential peace officer personnel file.

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- (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.
- (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 officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interviews.
- (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 interviews 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 Division Commander shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.

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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.

#### **310.7.1 CIVIL LIABILITY RESPONSE**

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation, but shall be given reasonable access to all other investigations.

#### **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.

## Edged Weapons

### 311.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of edged weapons that are described in this policy.

### 311.2 POLICY

The West Linn Police Department will equip its members with a fixed-blade edged weapon to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure edged weapons are appropriate, in good working order and that relevant training is provided as resources allow. The West Linn Police Department authorizes officers to use edged weapons in accordance with the guidelines in this policy and the Use of Force Policy.

### 311.3 AUTHORIZED EDGED WEAPONS

Members shall only use the Department issued edged weapon after it has been thoroughly inspected and approved by the Defensive Tactics Coordinator. This exclusion does not apply to personally owned edged weapons such as Leathermans, folding knives, or other fixed blade knives carried for defense.

### 311.4 ISSUING, CARRYING AND USING EDGED WEAPONS

The Department shall issue a fixed-blade, edged weapon to any officer wishing to carry it.

The edged weapon described in this policy shall be carried and used by members of this department only in accordance to the guidelines discussed in this policy and only after the member has successfully completed department approved training in the use of the edged weapon. The edged weapon may only be carried and displayed according to the guidelines set forth by the Defensive Tactics Coordinator.

### 311.5 COORDINATOR RESPONSIBILITIES

The Defensive Tactics Coordinator may authorize the use of the edged weapon by selected personnel or members of specialized units who have successfully completed the required training.

### 311.6 TRAINING FOR EDGED WEAPONS

The Survival Skills Instructor/Defensive Tactics Coordinator shall ensure that all personnel who are authorized to carry a department issued edged weapon have been properly trained to carry and use the specific edged weapon and are retrained as necessary.

- (a) Training shall be monitored and documented by a Survival Skills instructor.
- (b) All training and proficiency for edged weapons will be documented in the officer's training file.
- (c) Officers who fail to successfully complete the required training with the edged weapon or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot successfully complete the required training with the edged weapon or knowledge of this



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agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the edged weapon.

#### **311.7 REPORTING USE OF EDGED WEAPONS**

Any application of the edged weapon listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

## Firearms

### 312.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

### 312.2 POLICY

The West Linn Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

### 312.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Rangemaster. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the member's Division Captain. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

#### 312.3.1 HANDGUNS

All new hires will be issued and required to carry a Glock 17 or 19 by the department. Employees assigned to plain-clothes assignments, as approved by the Chief of Police, may carry a Glock 43 as their primary duty firearm. The employee will be responsible for purchasing the Glock 43 at their own expense as this particular firearm will not be issued by the department.

#### 312.3.2 PATROL RIFLES

The authorized department patrol rifle is the Colt AR-15 or similar AR-15 variants (direct gas impingement system) in .223 caliber/5.56mm. The department will issue appropriate ammunition for the patrol rifle. It is mandatory that a department issued flashlight, optic, and sling be mounted to a rifle before the rifle is deployed.

Officers shall not carry or utilize the patrol rifle unless they have successfully completed departmental patrol rifle training. This training shall consist of patrol rifle instruction with a patrol

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rifle instructor and cold qualification score. Officers shall thereafter be required to successfully complete patrol rifle training and annual qualification conducted by a patrol rifle instructor.

Members may deploy the patrol rifle in any circumstance where the member 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 member reasonably anticipates an armed encounter.
- (b) When a member is faced with a situation that may require accurate and effective fire at a longer range.
- (c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- (e) When a member reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.

When not deployed, the patrol rifle shall be properly secured in a locking weapons rack or locked in the trunk in the patrol vehicle with the chamber empty, the bolt forward, the loaded magazine inserted into the magazine well, and the selector lever in the safe position; "Patrol Ready". When inside the WLPD the rifle shall be "Armory Ready"; action open, magazine removed, bolt block inserted and the safety on.

#### 312.3.3 AUTHORIZED SECONDARY HANDGUN

Officers desiring to carry a secondary firearm are subject to the following restrictions:

- (a) The handgun shall be in good working order and be of a make/model approved of by the Rangemaster and the Chief of Police.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun shall be the responsibility of the member.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by the department armorer prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) If the department armorer is unable to inspect the firearm due to a difference in make, the member is responsible for having a function check done by the Rangemaster before being carried.
- (g) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Rangemaster and the Chief of Police shall approve the ammunition.
- (h) Prior to carrying the secondary handgun, members shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.

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- (i) The WLPD shall make a written notice of the make, model, serial number and caliber of the secondary handgun and the department designee shall maintain a list of the information.

#### 312.3.4 AUTHORIZED OFF-DUTY FIREARMS

The ability of members to carry firearms while off-duty is encouraged, but may be rescinded should circumstances dictate (e.g., administrative leave). Members who choose to carry a firearm while off-duty, will be required to meet the following guidelines:

- (a) A personally owned firearm may be used, carried and inspected after approval from the Rangemaster and the Chief of Police..
  - 1. The purchase of the personally owned firearm shall be the responsibility of the member. Ammunition may be provided by WLPD if it is a department issued caliber or will need to be purchased by the member.
- (b) The preferred method for off-duty carry is to have the firearm concealed at all times. When carrying off-duty, all firearms shall be carried in such a manner as to prevent unintentional cocking, discharge or loss of physical control and the member is required to have their West Linn Police Department identification on their person. Any member who has reason to open-carry, must additionally display their West Linn Police Department badge in a visible location on their person.
- (c) It will be the responsibility of the member to submit the firearm to the department armorer for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the department armorer.
- (d) If the department armorer is unable to inspect the firearm due to a difference in make, the member is responsible for having a function check done by the Rangemaster before being carried.
- (e) Prior to carrying any off-duty firearm, the member shall both qualify as appropriate and demonstrate to the Firearms team that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (f) The WLPD shall make a written notice of the make, model, serial number and caliber of the firearm and the department designee shall maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.

#### 312.3.5 AMMUNITION

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

#### 312.4 FIREARMS QUALIFICATIONS

All sworn personnel are required to qualify as determined by the Chief of Police with their primary duty weapon on an approved 50-round range course. The Rangemaster or his designee shall keep

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records of qualifications, repairs, maintenance, training or as directed by the Training Coordinator. In addition to annual qualification schedules, the Rangemaster or his designee shall be responsible for providing all sworn personnel with annual practical training designed to simulate field situations. At least annually, all personnel carrying a firearm will receive training, 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 certified firearms instructors.

Sworn members are required annually to shoot and pass a cold qualification with a minimum score of 75%.

#### 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 notify his or her immediate supervisor via e mail prior to the end of the required training or qualification period.

If the officer fails the cold qualification they can immediately shoot a conditional qualification. If successful, they can continue to work in their current assignment but will receive remedial training and be required to shoot a cold qualification within 14 calendar days. If the officer does not shoot the cold qualification within 14 calendar days or fails to cold qualify after their remedial training, they will be removed from their field assignment and be placed in another assignment pending review.

Members who repeatedly fail to qualify may be relieved from their field assignment and appropriate disciplinary action may follow. The Chief of Police will be notified of the process when members fail to qualify. Also refer to policy 312.6.1 "Failure to Meet Firearms Training Standards."

#### 312.4.2 HOLSTERS

Only department approved holsters shall be used and worn by members while on duty. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

#### 312.4.3 TACTICAL LIGHTS

Tactical lights may be installed on a firearm carried on duty or off-duty after they have been examined and approved by the Rangemaster or his designee. Once the approved tactical lights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

#### 312.4.4 OPTICS OR LASER SIGHTS

Optics are authorized for duty use on duty handguns and patrol rifles. Optics or laser sights will be allowed on personally owned off-duty handguns, once approved by the Rangemaster. All laser sights or optics must be examined and approved by the Rangemaster or his designee prior to carry. Any approved sight shall only be installed in strict accordance with manufacturer specifications.

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Once approved sights have been properly installed on any firearm, the member shall qualify with the firearm to insure proper functionality and sighting of the firearm prior to carrying it.

#### **312.5 SAFE HANDLING, INSPECTION AND STORAGE**

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster or his designee. Members shall dry fire in accordance with the WLPD dry fire procedure.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle, using clearing barrels.
- (e) Members 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 an arrestee, but shall place all firearms in a secured location.
- (f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on-or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the department armorer for inspection and repair. Any firearm deemed in need of repair or service by the department armorer will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable and the member shall qualify with that weapon as soon as practicable.

##### **312.5.1 INSPECTION AND STORAGE**

Handguns and rifles shall be kept clean and lubricated and shall be inspected regularly. Shotguns and rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Firearms may be safely stored in lockers or in the armory at the end of the shift. Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside the building.

##### **312.5.2 STORAGE AT HOME**

Members shall ensure that all department issued firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep

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them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil liability.

#### 312.5.3 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on-or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to affect the member's senses or judgment to a perceptible degree.

#### **312.6 FIREARMS TRAINING STANDARDS AND REQUIREMENTS**

Training can include: MILO, simunitions, non live fire and live fire. All members who carry a firearm while on-duty are required to successfully complete training bi-annually with their duty firearms. All members will qualify at least annually with their duty firearms.

Members will qualify with off-duty and secondary firearms at least once a year.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting, and shoot-no shoot scenarios..

#### 312.6.1 FAILURE TO MEET FIREARMS TRAINING STANDARDS

If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall send an e mail to his/her immediate supervisor prior to the end of the required training or qualification period.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.
- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) This remedial training and qualification could occur the same day, but must be completed within 14 calendar days.
- (d) No range credit will be given for the following:
  - (a) Unauthorized range make-up
  - (b) Failure to meet minimum standards or failure to qualify after remedial training

Members who fail to meet minimum standards or fail to qualify after remedial training will be removed from field assignment and may be subject to disciplinary action.

#### **312.7 FIREARM DISCHARGE**

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and

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Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Division Captain or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, a written report shall be submitted or recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

#### **312.7.1 DESTRUCTION OF ANIMALS**

Members are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, conducted energy device, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed, becomes impractical, or if the animal reasonably appears to pose an imminent threat to human safety.

#### **312.7.2 INJURED ANIMALS**

With the approval of a supervisor or OIC, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical. In these circumstances, the member may use a duty sidearm, patrol rifle or shotgun to dispatch the injured animal. All injured animal dispatches shall be documented in an Incident Report.

#### **312.7.3 WARNING AND OTHER SHOTS**

Generally, shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the member reasonably believes that they appear necessary, effective, and reasonably safe.

Warning shots should not be used.

#### **312.8 RANGEMASTER DUTIES**

The range will be under the exclusive control of a certified 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 Coordinator after each range date. Failure of any member to sign in and out with the Rangemaster may result in non-participation or non-qualification.



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The range shall remain operational and accessible to department members during hours established by the Department.

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this department to verify proper operation. The Rangemaster has the authority to deem any department-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to their personally owned firearm; it will not be returned to service until it has been inspected and approved by the Rangemaster.

The Rangemaster has the responsibility for ensuring each member meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning, and safety of all firearms the member is authorized to carry.

The Rangemaster shall complete and submit to the Training Coordinator documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided, and, on a form that has been approved by the Department, a list of each member who completes the training. The Rangemaster should keep accurate records of all training shoots, qualifications, repairs, maintenance, or other records as directed by the Training Coordinator.

#### **312.9 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 officers 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, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their West Linn Police Department identification card, bearing the officer's name, a full-face photograph, identification number, 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) The West Linn Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the Officer's travel. If approved, TSA will send the West Linn Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.

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- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) 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.
- (i) Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

#### **312.10 CARRYING FIREARMS OUT OF STATE**

Qualified, active, full-time officers of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

- (a) The officer shall carry his/her West Linn Police Department identification card whenever carrying such firearm.
- (b) The officer is not the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) 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 authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Active law enforcement officers from other states are subject to all requirements set forth in 18 USC § 926B.

## Vehicle Pursuits

### 314.1 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.

### 314.2 PURPOSE AND SCOPE

This policy provides guidelines for vehicle pursuits in order to protect the safety of involved officers, the public and fleeing suspects.

#### 314.2.1 DEFINITIONS

Definitions related to this policy include:

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

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

**Pursuit Intervention Technique (PIT)** - A low-speed maneuver designed to cause the suspect vehicle to spin out, stall and come to a stop.

**Ramming** - The deliberate act of contacting a suspect's vehicle with another law enforcement vehicle to functionally damage or otherwise force the suspect's vehicle to stop.

**Roadblocks** - A tactic designed to stop a suspect's vehicle by intentionally placing a law enforcement vehicle or other immovable object in the path of the suspect's vehicle.

**Terminate** - To discontinue a pursuit or stop chasing fleeing vehicles.

**Tire deflation device** - A device designed to puncture the tires of the pursued vehicle.

**Trail** - Following 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 vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit.

**Vehicle pursuit** - An event involving one or more law enforcement officers attempting to apprehend a suspect, who is attempting to avoid arrest while operating a 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 emergency signal to stop.

### 314.3 OFFICER RESPONSIBILITIES

Vehicle pursuits shall only be conducted using authorized police department emergency vehicles that are equipped with and displaying emergency lighting and sirens as required by law (ORS 801.260).

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Officers shall drive with due regard for the safety of all persons and property. However, officers may, when in pursuit of a suspect and provided there is no unreasonable risk to persons and property (ORS 820.300; ORS 820.320):

- (a) Proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation.
- (b) Exceed the speed limit.
- (c) Disregard regulations governing direction of movement or turning in specified directions.

#### 314.3.1 WHEN TO INITIATE A PURSUIT

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect, who has been given an appropriate signal to stop by a law enforcement officer, is attempting to evade arrest or detention by fleeing in a vehicle and the officer believes a violent felony person crime has been committed.

Factors that should be considered, both individually and collectively, when deciding to initiate or continue a pursuit include but are not limited to:

- (a) The seriousness of the known or reasonably suspected crime and its relationship to community safety. Only violent felony person crimes will meet the threshold for pursuit initiation.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists, and others.
- (c) The safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones), and the speed of the pursuit relative to these factors.
- (d) The pursuing officers' familiarity with the area of the pursuit, the quality of radio communications between the pursuing vehicles and the dispatcher/supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.
- (e) Whether weather, traffic, and road conditions unreasonably increase the danger of the pursuit when weighed against the risks resulting from the suspect's escape.
- (f) Whether the identity of the suspect has been verified and whether there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.
- (g) The performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- (h) Emergency lighting and siren limitations on unmarked police department vehicles that may reduce visibility of the vehicle, such as visor or dash-mounted lights, concealable or temporary emergency lighting equipment, and concealed or obstructed siren positioning.
- (i) Vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders, hostages).

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- (k) The availability of other resources such as aircraft assistance.
- (l) Whether the pursuing vehicle is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with an arrestee in the pursuit vehicle unless exigent circumstances exist, and then only after the need to apprehend the suspect is weighed against the safety of the arrestee in transport. A vehicle containing more than a single arrestee should not be involved in a pursuit.

#### 314.3.2 WHEN TO TERMINATE A PURSUIT

Pursuits shall be discontinued whenever the totality of objective circumstances 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 suspect's escape.

Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists and themselves when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean to discontinue or to stop chasing the fleeing vehicle/s.

Once a pursuit is terminated, involved officers shall verbally acknowledge the termination over the radio, disengage the pursuit (turning off all lights and sirens) and begin obeying all traffic laws including speed limits. It may be necessary to turn off at the next available street in order to clearly signal to the fleeing driver that they are no longer being pursued. This does not limit an officer's ability to then drive along the last known path of the fleeing vehicle to ensure that the violator has not been involved in an accident or abandoned the vehicle.

The following factors should also be considered when deciding whether to terminate a pursuit:

- (a) Distance between the pursuing officers and the fleeing vehicle/s is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time, speed and/or distance.
- (b) Pursued vehicle's location is no longer definitely known.
- (c) Officer's vehicle sustains any type of damage that renders it unsafe to drive.
- (d) Hazards to uninvolved bystanders or motorists.
- (e) Officers are not adequately broadcasting updates and intervention strategies are not being planned or implemented.
- (f) Pursuits shall be terminated when directed by a supervisor or officer from any involved agency.

Pursuing Known Subjects: If the identity of the suspect/s has been verified or is established and there is comparatively minimal risk in allowing the suspect/s to be apprehended at a later time, the pursuit shall be terminated. But if the identity of the offender is known and the seriousness of the crime or reasonably suspected crime, rises to the level of a serious risk to the public's safety, the pursuit may be continued. This does not relieve the member's duty to continually weigh the risks associated with the continuation of the pursuit, against the benefit and need for immediate capture.

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**Extended Pursuits:** Extended pursuits cannot be defined solely by the amount of time one is engaged in a pursuit, but also must consider whether intervention strategies are likely, being planned or implementation is being attempted. If an officer is simply chasing a vehicle with no reasonable expectation that appropriate intervention is likely and/or being planned, the seriousness of the offense and the immediate safety threat to the public may dictate termination.

#### **314.4 PURSUIT VEHICLES**

When involved in a pursuit, unmarked police department emergency vehicles should be replaced by marked emergency vehicles whenever practicable. Officers driving a police motorcycle equipped with emergency lights and siren, are authorized to conduct vehicle pursuits until such time that distinctly marked police vehicles equipped with emergency overhead lighting can assume the pursuit.

Vehicle pursuits should be limited to three police department emergency vehicles (two pursuit vehicles and the supervisor vehicle). However, the number of vehicles involved will vary with the circumstances.

If circumstances allow, a supervisor must request additional vehicles 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 number of suspects. All other officers shall 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 pursuit termination point at legal speeds, following the appropriate rules of the road.

##### **314.4.1 PRIMARY PURSUIT VEHICLE RESPONSIBILITIES**

The initial pursuing officer will be designated as the primary pursuit vehicle and will be responsible for the conduct of the pursuit unless the officer is unable to remain reasonably close to the suspect's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect without unreasonable danger to themselves or others.

The primary pursuing officer should notify the dispatcher, commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable provide information including but not limited to:

- (a) The location, direction of travel, and estimated speed of the suspect's vehicle.
- (b) The description of the suspect's vehicle including the license plate number, if known.
- (c) The reason for the pursuit.
- (d) The use of firearms, threat of force, violence, injuries, hostages, or other unusual hazards.
- (e) The number of occupants and identity or description.
- (f) The weather, road, and traffic conditions.
- (g) The need for any additional resources or equipment.
- (h) The identity of other law enforcement agencies involved in the pursuit.

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Until relieved by a supervisor or a secondary pursuing officer, the officer in the primary pursuit vehicle shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary pursuing officer should, as soon as practicable, relinquish the responsibility of broadcasting the progress of the pursuit to an officer in a secondary pursuit vehicle or to air support joining the pursuit to minimize distractions and allow the primary pursuing officer to concentrate foremost on safe pursuit tactics.

#### **314.4.2 SECONDARY PURSUIT VEHICLE RESPONSIBILITIES**

The second officer in the pursuit will be designated as the secondary pursuit vehicle and is responsible for:

- (a) Immediately notifying the dispatcher of his/her entry into the pursuit.
- (b) Remaining a safe distance behind the primary pursuit vehicle unless directed to assume the role of primary pursuit vehicle, or if the primary pursuit vehicle is unable to continue the pursuit.
- (c) Broadcasting information that the primary pursuing officer is unable to provide.
- (d) Broadcasting the progress of the pursuit, updating known or critical information and providing changes in the pursuit, unless the situation indicates otherwise.
- (e) Identifying the need for additional resources or equipment as appropriate.
- (f) Serving as backup to the primary pursuing officer once the suspect has been stopped.

#### **314.5 SUPERVISORY CONTROL AND RESPONSIBILITIES**

Available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department.

The field supervisor or Officer-In-Charge (OIC) of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for:

- (a) Immediately notifying involved officers and the dispatcher of supervisor presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit. This is 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 required law enforcement vehicles are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in the field supervisor's judgment, it is not justified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that assistance from air support, canines, or additional resources is requested, if available and appropriate.
- (g) Ensuring that the proper radio channel is being used.

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- (h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this department.
- (i) Controlling and managing West Linn Police Department officers when a pursuit enters another jurisdiction.
- (j) Preparing a post-pursuit review and documentation of the pursuit as required.

#### **314.6 LOCOM**

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.

#### **314.7 PURSUIT DRIVING**

The decision to use specific driving tactics requires the same assessment of the factors officer considered when determining whether to initiate and/or terminate a pursuit. The following are tactics for officers who are involved in the pursuit:

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles so that they are able to see and avoid hazards or react safely to unusual maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
  1. Available officers 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 officers should exercise due caution and slow down as may be necessary when proceeding through controlled intersections.
- (c) As a general rule, officers should not pursue a vehicle driving the wrong way on a roadway, highway or freeway. In the event the pursued vehicle does so, the following tactics should be considered:
  1. Request assistance from available air support.
  2. Maintain visual contact with the pursued vehicle by paralleling the vehicle on the correct side of the roadway.
  3. Request other officers to observe exits available to the suspect.
  4. Notifying the Oregon State Police (OSP) or other law enforcement agency when it appears that the pursuit may enter its jurisdiction.
- (d) Officers involved in a pursuit should not attempt to pass other pursuing vehicles unless the situation indicates otherwise or they are requested to do so by the pursuing officer and with a clear understanding of the maneuver process between the involved officers.



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##### **314.7.1 PURSUIT TRAILING**

In the event that initial pursuing officers relinquish control of the pursuit to another agency, the initial officers may, with the permission of a supervisor, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspect and reporting the incident.

##### **314.7.2 AIR SUPPORT ASSISTANCE**

When available, air support assistance should be requested. Once the air support crew has established visual contact with the pursued vehicle, they should assume communication control over the pursuit. The primary and secondary ground pursuit vehicles, or involved supervisor, will maintain operational control but should consider whether the participation of air support warrants their continued close proximity and/or involvement in the pursuit.

The air support crew 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 to continue the pursuit. If officers on the ground are not within visual contact of the pursued vehicle and the air support crew determines that it is unsafe to continue the pursuit, the air support crew should recommend terminating the pursuit.

##### **314.7.3 OFFICERS NOT INVOLVED IN THE PURSUIT**

Officers who are not involved in the pursuit should remain in their assigned area, should not parallel the pursuit route and should not become involved with the pursuit unless directed by a supervisor. Uninvolved 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. Those officers should attempt to place their vehicles in locations that provide some safety or an escape route in the event of an unintended collision or if the suspect intentionally tries to ram the police department vehicle.

Non-pursuing members needed at the pursuit termination point should respond in a nonemergency manner, observing the rules of the road.

The primary pursuit vehicle, secondary pursuit vehicle and supervisor vehicle should be the only vehicles operating under emergency conditions (emergency lights and siren) unless other officers are assigned to the pursuit.

#### **314.8 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 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.

Unless relieved by a supervisor, the primary pursuing officer should coordinate efforts to apprehend the suspect following the pursuit. Officers should consider the safety of the public and the involved officers when formulating plans for setting up perimeters or for containing and capturing the suspect.

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#### **314.9 LOSS OF PURSUED VEHICLE**

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

#### **314.10 INTERJURISDICTIONAL CONSIDERATIONS**

When a pursuit enters another agency's jurisdiction, the primary pursuing 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 pursuing officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether the jurisdiction is expected to assist.

##### **314.10.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY**

Officers will relinquish control of the pursuit when another agency has assumed the pursuit, unless the continued assistance of the West Linn Police Department is requested by the agency assuming the pursuit. Upon relinquishing control of the pursuit, the involved officers may proceed, with supervisory approval, to the termination point of the pursuit to assist in the investigation. The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for any reports.

The role and responsibilities of officers at the termination point of a pursuit initiated by this department shall be coordinated with appropriate consideration of the needs of 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. Because of communication limitations between local law enforcement agencies, a request for another agency's assistance will mean that its personnel will assume responsibility for the pursuit. For the same reasons, when a pursuit leaves another jurisdiction and a request for assistance is made to this department, the other agency should relinquish control.

##### **314.10.2 PURSUITS EXTENDING INTO THIS JURISDICTION**

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Officers from this department should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a supervisor. The exception to this is when a single vehicle from the initiating agency is in pursuit. Under this circumstance, an officer from this department may, with supervisor approval, immediately join the pursuit until sufficient vehicles from the initiating agency join the pursuit or until additional information is provided allowing withdrawal from the pursuit.

When a request is made for this department to assist or take over a pursuit that has entered the jurisdiction of the West Linn Police Department, the supervisor should consider:

- (a) The public's safety within this jurisdiction.

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- (b) The safety of the pursuing officers.
- (c) Whether the circumstances are serious enough to continue the pursuit.
- (d) Whether there is adequate staffing to continue the pursuit.
- (e) The ability to maintain the pursuit.

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

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

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

#### **314.11 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.

##### **314.11.1 WHEN USE IS AUTHORIZED**

Whenever practicable, an officer shall seek approval from a supervisor before employing any intervention to stop the pursued vehicle. In deciding whether to use intervention tactics, officers/supervisors should balance the risk 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 this in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances apparent to the officer at the time of the decision.

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

##### **314.11.2 USE OF FIREARMS**

The use of firearms to disable a pursued vehicle is prohibited. 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, or to protect life when circumstances dictate that deadly force is absolutely necessary.

##### **314.11.3 INTERVENTION STANDARDS**

Any 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 force, including deadly

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force, and are subject to the policies guiding such use. Officers 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, and when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved this intervention tactic should only be employed by properly trained officers and after giving consideration to the following:
  - 1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risk of injury or death to occupants of the suspect vehicle, officers, or others.
  - 2. All other reasonable intervention tactics have failed or reasonably appear ineffective.
  - 3. Employing the blocking or vehicle intercept maneuver does not unreasonably increase the risk of danger to those involved or the public.
  - 4. The suspect vehicle is stopped or traveling at a low speed.
  - 5. Only law enforcement vehicles should be used in this tactic.
- (b) The PIT is limited to use by properly trained officers with the approval of a supervisor (if circumstances allow) and upon assessment 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 or would not be effective, and immediate control is necessary. Ramming should be reserved for situations where there does not appear to be another reasonable alternative method. 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. 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.
  - 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 or using the vehicle as a weapon.
- (d) Boxing-in a suspect vehicle should only be attempted upon approval of a supervisor. The use of such a tactic must be carefully coordinated with all involved officers, taking into consideration the circumstances and conditions apparent at the time as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle. Officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.
- (e) Tire deflation devices should be deployed only after notification of pursuing officers and the supervisor of the intent and location of the deployment, and in a manner that:

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1. Should reasonably only affect the pursued vehicle.
  2. Provides the deploying officer adequate cover and escape from intentional or unintentional exposure to the approaching vehicle.
  3. Takes into account the limitations of such devices as well as the potential risk to officers, the public, and occupants of the pursued vehicle.
  4. Takes into account whether the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children.
- (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. If roadblocks are deployed, it should only be done under extraordinary conditions when all other reasonable intervention tactics 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 the public.

#### **314.12 REPORTING REQUIREMENTS**

All appropriate reports shall be completed to comply with appropriate laws and policies or procedures:

- (a) The primary pursuing officer shall complete appropriate offense/incident/arrest reports.
- (b) After first obtaining the available information, the involved, or if unavailable, on-duty field supervisor shall promptly complete an After Action Report summarizing the pursuit to the Chief of Police or the authorized designee. This After Action Report should include, at a minimum:
  1. Date and time of pursuit.
  2. Initial reason and circumstances surrounding the pursuit.
  3. Length of pursuit in distance and time, including the starting and termination points.
  4. Involved vehicles and officers.
  5. Alleged offenses.
  6. Whether a suspect was apprehended, as well as the means and methods used.
    - (a) Any use of force shall be reported and documented in compliance with the Use of Force Policy.
  7. Arrestee information, if applicable.
  8. Any injuries and/or medical treatment.
  9. Any property or equipment damage.
  10. Name of supervisor at the scene or who handled the incident.

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11. A preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.
12. A copy of all dispatch recordings capturing the entire incident leading up to the pursuit, the pursuit itself and the aftermath.

#### **314.12.1 ADMINISTRATIVE REVIEW**

An Administrative Review is completed by the Chief of Police or their designee upon completion and submittal of the After Action Report. The reviewer will document at the bottom of the After Action Report whether policy, training, equipment, or disciplinary issues should be addressed.

#### **314.13 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.

#### **314.14 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.

#### **314.15 ANNUAL REVIEW**

During the first calendar quarter of each year, the Patrol Division 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.

## 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 may at their discretion proceed code 3 to traffic accidents and medical calls when the circumstances dictate.

Officers responding Code 3 shall operate emergency lights and siren as is reasonably necessary pursuant to ORS 820.300 and ORS 820.320. Officers shall only use the wail and yelp function of the siren as an emergency sound. The hi-lo function of the siren is not considered an emergency sound pursuant to OAR 735-110-0000(8) and OAR 735-110-0010(1-3).

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.

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

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

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##### **316.3.1 NUMBER OF UNITS ASSIGNED**

Normally, no more than two units should respond to an emergency call Code-3 unless a patrol supervisor authorizes an additional unit(s).

##### **316.4 INITIATING CODE 3 RESPONSE**

Based on the information in a call, the Officer may decide that a Code-3 response is warranted. Other Officers responding to the same call that are also responding Code-3 should be mindful that their sirens may drown out other responding vehicles, and assess the need to have more than one unit responding Code-3. It is incumbent on the on duty patrol supervisor to monitor the radio, and Officers response to calls.

##### **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.

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.

##### **316.6 SUPERVISORY RESPONSIBILITIES**

The patrol sergeant or OIC 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, 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. The supervisor should also ensure that no more than those units reasonably necessary under the circumstances are involved in the response. When making that decision the patrol supervisor should consider the following:

- The type of call
- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding units

##### **316.7 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 Shift Supervisor, field supervisor, or LOCOM of the equipment failure so that another unit may be assigned to the emergency response.



## Canine Program

### 318.1 PURPOSE AND SCOPE

The Canine Program was established to augment police services to the community. Highly skilled and trained teams of handlers and canines have evolved from the program and are used to supplement police operations to locate individuals, contraband and to apprehend criminal offenders.

### 318.2 GUIDELINES FOR THE USE OF CANINES

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed or threatened to commit any serious offense and if any of the following conditions exist:

- (a) There is a reasonable belief that the individual poses an imminent threat of violence or serious harm to the public, any officer or the handler.
- (b) 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.
- (c) 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. In any such case, a standard of objective reasonableness shall be used to review the decision to use a canine in view of the totality of the circumstances.

Absent reasonable belief that an individual has committed or threatened to commit a serious offense, mere flight from pursuing officers shall not serve as good cause for the use of a canine to apprehend the individual.

Once the individual has been located and no longer reasonably appears to represent a threat or risk of escape, the canine should be placed in a down-stay or otherwise secured as soon as it becomes reasonably practical.

#### 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 resistance or threatened resistance, if any, the subject has shown.

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- (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 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 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 to announce that a canine will be released if the person does not come forth, shall be made prior to releasing a canine. The canine handler, when practical, shall first advise the supervisor of his/her decision if a verbal warning is not given prior to releasing the canine. In the event of an apprehension, the handler shall document in any related report whether or not a verbal warning was given and, if none was given, the reasons why.

#### 318.2.3 GUIDELINES FOR NON-APPREHENSION USE

Because canines have senses far superior to those of humans, they may be effectively utilized to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention) or even suspects wanted for minor criminal offenses. In such circumstances, it will be necessary for the handler to evaluate the conditions and ability of the canine to determine the feasibility of such an application.

- (a) Absent a change in circumstances which presents an immediate threat to officers, the canine or the public, such applications should be conducted on leash or under such conditions that will minimize the likelihood that the canine will bite or otherwise injure the individual.
- (b) 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.
- (c) Unless otherwise directed by a supervisor, assisting personnel should take direction from the handler in order to minimize interference with the canine.

#### 318.2.4 REPORTING CANINE USE, BITES AND INJURIES

Whenever the canine is deployed, a Canine Use Report shall be completed by the handler and submitted to the Patrol Division Commander before going off duty.

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Whenever the use of the canine results in a bite or any injury it shall be completed and included with any related incident report.

If a bite or injury results from the use of the canine, that information shall be documented in a report. The report should include, at a minimum, the following:

Photographs should be taken of the bite or injury as soon as practicable after tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. Photographs shall be retained until the potential need for use in any related civil proceeding has expired.

The injured party should be transported to an appropriate medical facility if the injury requires medical attention beyond first aid. If the injured party is in custody an officer should remain with the suspect until treatment has been rendered.

If a subject alleges an injury that is not visible, a supervisor shall be notified and the location of the alleged injury should be photographed as described above.

The Canine Handler will maintain liaison with Clackamas County Animal Control or appropriate animal control authority to ensure that information regarding canine bites is not retained by its office.

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 Shift Supervisor.

Medical care for any injured canine should follow the protocol established in § 318.6 et seq.

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

#### **318.2.6 ASSIGNMENT OF CANINES**

The canine teams shall be assigned to the Patrol Division to supplement and assist Patrol.

Staffing levels may dictate that a canine unit be assigned to perform the duties of a patrol district.

Canine teams should function primarily as cover units however; they may be assigned by the Patrol Sergeant to other functions based on the needs of the department at the time.

#### **318.3 REQUEST FOR USE OF CANINE TEAMS**

Personnel within the Department are encouraged to freely solicit the use of the canines. Requests for a canine team from outside of Patrol or from another agency shall be acknowledged and approved by a patrol supervisor.

##### **318.3.1 REQUEST FOR ASSISTANCE FROM OTHER AGENCIES**

A Patrol Sergeant must approve all requests for canine assistance from outside agencies, subject to the following provisions:

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- (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 West Linn unless authorized by a 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 demonstration shall be approved by the Patrol Commander prior to making any commitment. The canine handler will brief the Patrol Commander regarding the scope of the demonstration.

#### **318.4 SELECTION OF CANINE HANDLERS**

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

- (a) West Linn Police Department Officer (currently off probation) with a minimum of 3 years patrol experience.
- (b) Reside in an adequately fenced, single-family, residence (minimum five-foot high fence with locking gates)
- (c) Live within 30 minutes travel time from the West Linn City limits
- (d) Agree to be assigned to the position for a minimum of four years

#### **318.5 CANINE HANDLER RESPONSIBILITIES**

##### **318.5.1 AVAILABILITY**

The handler shall be available for call-out under conditions specified by this policy. The canine handler will have the final decision if the team will deploy.

##### **318.5.2 CARE FOR THE CANINE AND EQUIPMENT**

The 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 handler will be responsible for the following:

- (a) Unless required by a particular application, 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) Any changes in the living status of the handler which may affect the lodging or environment of the canine shall be reported to the Patrol Commander as soon as possible.

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- (d) When off-duty, canines shall be maintained in kennels, provided by the City, at the homes of their handlers. When a canine is kenneled at the handler's home, the gate should be secured with a lock. When off-duty, canines may be let out of their kennels while under the supervision of their handlers or responsible family members.
- (e) The canine should be permitted to socialize in the home with the handler's family under the supervision of the handler.
- (f) If the canine be lodged at another location the handler will advise the Patrol Commander.
- (g) Whenever a canine handler anticipates taking a vacation or an extended number of days off, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the Patrol Commander.

#### **318.5.3 CANINES IN PUBLIC AREAS**

All canines shall be under actual or constructive control 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 dog as provided in the Fair Labor Standards Act. The compensation shall be prescribed in the employee's Collective Bargaining Agreement.

#### **318.6 MEDICAL CARE OF THE CANINE**

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency as provided in Policy Manual § 318.6.2.

##### **318.6.1 NON-EMERGENCY MEDICAL CARE**

Non-emergency medical care will be coordinated by the canine handler.

Any indication that a canine is not in good physical condition shall be reported to the Unit Coordinator or the Patrol Commander as soon as practical.

All records of medical treatment shall be maintained in the Police Department's records division.

##### **318.6.2 EMERGENCY MEDICAL CARE**

The handler should notify the Unit Coordinator as soon as practicable when emergency medical care is required.

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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.

#### **318.7 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.

##### **318.7.1 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.
- (c) To ensure 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 West Linn Police Department.
- (d) All canine training should be conducted while on-duty unless otherwise approved by the Unit Coordinator or Shift Supervisor.

##### **318.7.2 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.

##### **318.7.3 TRAINING RECORDS**

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

## Domestic Violence

### 319.1 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.

#### 319.1.1 DEFINITIONS

Definitions related to this policy include:

**Court order** - All forms of orders related to domestic violence, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

### 319.2 POLICY

The West Linn Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

### 319.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

### 319.4 INVESTIGATIONS

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

- (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.

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- (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 Unit 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) Officers should attempt to complete all forms in the West Linn Police Domestic Violence Packet including the West Linn Police Domestic Violence Supplemental Form, the Clackamas County Strangulation Supplemental Form (if applicable), and the Domestic Violence Lethality Screen for First Responders.
- (h) 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.
- (i) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (j) 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.
- (k) 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.
  - 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.



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#### **319.5 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 or West Linn Police Department business card with QR resource code, 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 they have sustained injury or complains of pain.
- (f) Ask the victim whether they have a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for their 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.

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).

#### **319.6 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.

#### **319.7 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 their notice or receipt of the order, their 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.

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- (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.

#### **319.7.1 SERVICE OF COURT ORDERS**

Officers should, if requested and practicable, serve any unserved restraining order when called to the scene of a disturbance. Any officer serving such a restraining order shall ensure that a copy of proof of service is returned to the Sheriff for entry into the Law Enforcement Data System (LEDS) and the National Crime Information Center (NCIC) system (ORS 107.720).

#### **319.7.2 SERVICE OF EMERGENCY PROTECTIVE ORDERS**

An officer who obtains an emergency protective order for a victim shall provide the victim with a certified copy and ensure that a certified copy of the order and the supporting declaration for the order is filed with the court (ORS 133.035).

The officer who obtained the emergency protective order shall serve the respondent personally. Upon completion of the service, the officer shall file a proof of service with the court and ensure that the order is entered into LEDS. If service cannot be completed within one day of the order's entry, the officer shall notify the court (ORS 133.035).

If an officer receives a termination order from the court, the officer shall ensure that the order is promptly removed from LEDS (ORS 133.035).

#### **319.8 STANDARDS FOR ARREST**

- (a) 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 ORS 107.705, or who believe that one such person has created in the other a fear of imminent serious physical injury, shall arrest and take into custody the alleged assailant or potential assailant (ORS 133.055).
- (b) Dual arrests are not required (ORS 133.055). Officers shall make reasonable efforts to identify and arrest the primary assailant in any incident. In identifying the primary assailant, an officer shall consider:
  1. The comparative extent of the injuries inflicted or the seriousness of threats creating a fear of physical injury.
  2. If reasonably ascertainable, the history of domestic violence between the persons involved.
  3. Whether any alleged crime was committed in self-defense.
  4. The potential for future assaults.

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- (c) Once a suspect has been arrested under the provisions of ORS 133.055, the suspect shall be taken to jail. Officers have no authority to release the arrested person.
- (d) Officers shall arrest and take a suspect into custody when the officer has probable cause to believe that a restraining order or emergency protective order has been issued, a copy of the order and proof of service on the suspect have been filed, and the suspect has violated the terms of the order (ORS 133.310).

#### **319.9 REPORTS AND NOTIFICATIONS**

Officers should document in their report that they provided each domestic violence victim with a copy of the department's domestic violence victim information handout or West Linn Police Department business card with QR resource code (ORS 133.055).

Reporting officers should also provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout. 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.

##### **319.9.1 EMERGENCY PROTECTIVE ORDERS**

The Assistant to the Chief of Police/Records Supervisor shall ensure that a system is in place that provides officers at the scene of an alleged violation of an emergency protective order of the terms and existence of the protective order (ORS 133.035).

## Search and Seizure

### 321.1 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 West Linn Police Department personnel to consider when dealing with search and seizure issues.

### 321.2 POLICY

It is the policy of the West Linn Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

### 321.3 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

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, and observations of activities and property located on open public areas.

Because case law 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 his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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#### **321.4 SEARCH PROTOCOL**

Although conditions will vary and officer safety and other exigencies must be considered in every search situation; the following guidelines should be followed whenever circumstances permit:

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
  1. Another officer or a supervisor should witness the search.
  2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

#### **321.5 DOCUMENTATION**

Officers are responsible to document any search that leads to or is the result of an arrest, when evidence or any property is seized, when a search warrant is executed, or when a vehicle is impounded/inventoried, 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

### 323.1 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 West Linn Police Department (34 USC § 11133).

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

#### 323.1.1 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.152):

- (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.

#### **323.2 POLICY**

The West Linn 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 West Linn Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

#### **323.3 JUVENILES WHO SHOULD NOT BE HELD**

Juveniles who exhibit any of the following conditions should not be held at the West Linn Police Department:

- (a) Unconscious
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated
- (e) Extremely violent or continuously violent

Officers taking 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 West Linn 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.

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#### **323.4 CUSTODY OF JUVENILES**

Officers should take custody of a juvenile and temporarily hold the juvenile at the West Linn 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 West Linn Police Department without authorization of the arresting officer's supervisor or the Shift Supervisor.

Any juvenile taken into custody shall 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 shall a juvenile be held beyond five hours from the time of his/her entry into the West Linn Police Department (ORS 419B.160; ORS 419C.130).

##### **323.4.1 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 West Linn Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders may not be held in secure custody (42 USC § 5633).

##### **323.4.2 CUSTODY OF JUVENILE STATUS 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).

##### **323.4.3 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).

An officer 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).

Generally, an officer 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).



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Juvenile offenders should be held in non-secure custody while at the West Linn Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

#### **323.4.5 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.

#### **323.4.5 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.

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).

#### **323.5 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

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- (b) Location where the juvenile is being temporarily detained
- (c) Intended disposition
- (d) Time and place of any hearing

#### **323.6 JUVENILE CUSTODY LOGS**

Any time a juvenile is held in custody at the Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

- (a) Identifying information about the juvenile being held.
- (b) Date and time of arrival and release from the West Linn Police Department.
- (c) Shift Supervisor notification and approval to temporarily hold the juvenile.
- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender or non-offender.
- (e) Any changes in status.
- (f) Time of all welfare checks.
- (g) Any medical and other screening requested and completed.
- (h) Circumstances that justify any secure custody.
- (i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Shift Supervisor shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

#### **323.7 NO-CONTACT REQUIREMENTS**

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (42 USC § 5633). 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 West Linn 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.

#### **323.8 TEMPORARY CUSTODY REQUIREMENTS**

Members and supervisors assigned to monitor or process any juvenile at the West Linn Police Department shall ensure the following:

- (a) The Shift Supervisor should be notified if it is anticipated that a juvenile may need to remain at the West Linn Police Department more than four hours. This will enable the Shift Supervisor to ensure no juvenile is held at the West Linn Police Department more than five hours.

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- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal visual checks and significant incidents/activities shall be noted on the log.
- (d) There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware. Therefore, an employee should inform a juvenile under his/her care that the juvenile will be monitored at all times, unless he/she is using the toilet. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins.
- (f) 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.
- (g) Juveniles shall have reasonable access to a drinking fountain or water.
- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles should have privacy during family, guardian and/or lawyer visits.
- (j) 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.
- (k) Blankets should be provided as reasonably necessary.
- (l) Adequate shelter, heat, light and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in custody.
- (o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse.

#### **323.9 USE OF RESTRAINT DEVICES**

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the West Linn Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Shift Supervisor. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

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Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse.

#### **323.10 PERSONAL PROPERTY**

The officer taking custody of a juvenile offender or status offender at the West Linn Police Department shall ensure a thorough search of the juvenile's property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils and belts.

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile's presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the West Linn Police Department.

#### **323.11 SECURE CUSTODY**

Only juvenile offenders 14 years or older may be placed in secure custody. Shift Supervisor approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others.

Members of this department should not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option.

When practicable, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody, rather than the use of a locked enclosure. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object.

Generally, juveniles should not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter. Supervisor approval should be documented.

##### **323.11.1 LOCKED ENCLOSURES**

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

- (a) The juvenile shall constantly be monitored by an audio/video system during the entire time in custody.
- (b) Juveniles shall have constant auditory access to department members.
- (c) Initial placement into and removal from a locked enclosure shall be logged.

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- (d) Random personal visual checks of the juvenile by staff member, no less than every 15 minutes, shall occur.
  - 1. All checks shall be logged.
  - 2. The check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
  - 3. Requests or concerns of the juvenile should be logged.
- (e) Males and females shall not be placed in the same locked room.
- (f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

#### **323.12 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY OF A JUVENILE**

The Shift Supervisor will ensure procedures are in place to address the suicide attempt, death or serious injury of any juvenile held at the West Linn Police Department. The procedures will address:

- (a) Immediate notification of the on-duty supervisor, Chief of Police and Detective Unit supervisor.
- (b) Notification of the parent, guardian or person standing in loco parentis, of the juvenile.
- (c) Notification of the appropriate prosecutor.
- (d) Notification of the City Attorney.
- (e) Evidence preservation.

#### **323.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS**

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation. (See the Investigation and Prosecution Policy.)

#### **323.14 RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING**

A juvenile taken into custody under ORS 419C.080 shall be photographed and fingerprinted (ORS 419A.250(2)).

Other juveniles taken into custody may only be fingerprinted or photographed (ORS 419A.250(1)):

- (a) Pursuant to a search warrant.
- (b) According to laws concerning adults if the juvenile has been transferred to criminal court for prosecution.
- (c) Upon consent of both the juvenile and the juvenile's parent after being advised that they are not required to give such consent.

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- (d) By order of the juvenile court.

Fingerprints and photographs of juveniles must be kept separate from those of adults. Fingerprints and photographs of juvenile offenders shall be sent to the central state depository in the same manner as fingerprint and photograph files or records of adults. Fingerprints and photographs of other juveniles should not be sent to any central state or federal depository (ORS 419A.250).

#### **323.15 RECORDS**

Fingerprint and photograph files or records of juveniles must be kept separate from those of adults (ORS 419A.250).

Reports and other material relating to juveniles is generally considered privileged and may not be disclosed directly or indirectly except as provided in the Records Maintenance and Release Policy.

#### **323.16 TRAINING**

Department members should be trained on and familiar with this policy and any supplemental procedures.

## Adult Abuse

### 325.1 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 West Linn Police Department members as required by law.

#### 325.1.1 POLICY

It is the policy of the West Linn Police Department to treat reports of violence against elderly (Vulnerable) persons as a high priority criminal activity. This department will investigate all allegations of abuse of elderly (venerable) 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 West Linn Police Department will follow the countywide protocol established by the District Attorney's multi-disciplinary vulnerable elder abuse team, if applicable (ORS 430.731).

### 325.2 DEFINITIONS

For purposes of this policy, the following definitions are provided:

#### Abuse of an Elder or Vulnerable 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 or Vulnerable 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.

#### **325.3 MANDATORY NOTIFICATION**

Members of the West Linn 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.

#### **325.3.1 NOTIFICATION PROCEDURE**

Notification should occur as follows (ORS 124.065; ORS 430.743; ORS 441.645):

- (a) All notifications to DHS shall be made as soon as practicable by telephone.
- (b) Information provided to DHS shall include, if known:



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1. Name, age and address of the person abused
  2. Present location of the adult
  3. Name and address of the person responsible for the adult
  4. Identity of the perpetrator
  5. Nature and extent of the abuse and any evidence of previous abuse
  6. Any explanation given for the abuse
  7. Date of the incident
  8. Any other information that may be helpful in establishing the cause of the abuse
- (c) In cases where DHS has notified the Department of a possible crime relating to elder or dependent adult abuse, confirmation of receipt of notification shall be made to DHS.
- (d) DHS shall also be notified whether (ORS 124.070(3); ORS 430.745(7)):
1. There will be no criminal investigation and the explanation of why there will be no such investigation.
  2. The investigative findings have been forwarded to the District Attorney for review.
  3. A criminal investigation will take place.
- (e) In investigations that substantiate elderly abuse or abuse of a resident in a long-term care facility, DHS shall be notified in writing (ORS 124.070(2); ORS 441.650(2)).
- (f) Upon completion of investigations for dependent adult abuse, DHS shall be provided a written report of the findings and supporting evidence (ORS 430.745(4)).

#### **325.4 QUALIFIED INVESTIGATORS**

Qualified investigators should be available to investigate cases of adult abuse. These investigators should:

- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to adult abuse investigations.
- (c) Present all cases of alleged adult abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (ORS 430.739).

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#### **325.5 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.

#### **325.6 PROTECTIVE CUSTODY**

Before taking an adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact DHS. Generally, removal of an adult abuse victim from his/her family, guardian or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

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Generally, members of this department should remove an adult abuse victim from his/her family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an adult abuse victim into protective custody, the officer should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the officer shall ensure that the adult is delivered to DHS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

When adult abuse victims are under state control, have a state-appointed guardian or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

#### **325.6.1 DHS ASSISTANCE**

An officer shall cooperate with DHS when assistance is requested by written notice to gain access to an abused person and the officer believes that there is reasonable cause that a crime has been committed and an emergency exists that requires access to the person to ensure his/her safety (ORS 124.065; ORS 430.743; OAR 411-020-0085).

### **325.7 INTERVIEWS**

#### **325.7.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected adult abuse victim. Officers should avoid multiple interviews with the 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.

#### **325.7.2 DETAINING VICTIMS FOR INTERVIEWS**

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
  1. A reasonable belief that medical issues of the adult need to be addressed immediately.
  2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
  3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.

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- (b) A court order or warrant has been issued.

#### **325.8 MEDICAL EXAMINATIONS**

When an adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The officer should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

#### **325.9 DRUG-ENDANGERED VICTIMS**

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

##### **325.9.1 SUPERVISOR RESPONSIBILITIES**

The Detective Unit 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 adult abuse victims 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 Unit supervisor that he/she has responded to a drug lab or other narcotics crime scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives.
- (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 adult.

##### **325.9.2 OFFICER RESPONSIBILITIES**

Officers responding to a drug lab or other narcotics crime scene where an adult abuse victim is present or where there is evidence that an adult abuse victim lives should:

- (a) Document the environmental, medical, social and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the Detective Unit supervisor so an interagency response can begin.

#### **325.10 STATE MANDATES AND OTHER RELEVANT LAWS**

Oregon requires or permits the following:

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##### **325.10.1 RECORDS DIVISION RESPONSIBILITIES**

The Records Division is responsible for:

- (a) Providing a copy of the adult abuse report to DHS as required by law.
- (b) Retaining the original adult abuse report with the initial case file.

##### **325.10.2 RELEASE OF REPORTS**

Information related to incidents of adult abuse or suspected adult abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (ORS 124.090; ORS 430.763; ORS 441.671).

##### **325.11 TRAINING**

The Department should provide training on best practices in adult abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting interviews.
- (c) Availability of therapy services for adults and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to adult abuse investigations.
- (f) Availability of victim advocates or other support.

## Discriminatory Harassment

### 327.1 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).

### 327.2 POLICY

The West Linn 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.

### 327.3 DEFINITIONS

Definitions related to this policy include:

#### 327.3.1 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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##### **327.3.2 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.

##### **327.3.3 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.

##### **327.3.4 RETALIATION**

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

#### **327.4 RESPONSIBILITIES**

This policy applies to all department members, who shall follow the intent of these guidelines in a manner that reflects department policy, professional standards, and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Human Resources Director, or the City Manager.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or

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retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with a resolution as stated below.

#### 327.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure 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 Resources 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.

#### 327.4.2 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.



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##### **327.4.3 QUESTIONS OR CLARIFICATION**

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, the Human Resources Director, or the City Manager for further information, direction, or clarification.

##### **327.5 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.

##### **327.5.1 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.

##### **327.5.2 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 Resources Director, or the City Manager.

##### **327.5.3 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.

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#### **327.6 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 Resources Director, depending on the ranks of the involved parties.
- Maintained in accordance with the established records retention schedule.

##### **327.6.1 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.

#### **327.7 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.

#### **327.8 ADDITIONAL REQUIREMENTS**

The Chief of Police should consult with the Human Resources Director to ensure that all required notifications regarding unlawful employment discrimination are available to all employees.

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 West Linn Police Department require advance notice pursuant to ORS 30.275 (ORS 243.319).

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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 West Linn 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

### 329.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when West Linn Police Department members are required to notify the Department of Human Services (DHS) of suspected child abuse.

#### 329.1.1 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.

### 329.2 POLICY

The West Linn Police Department will investigate all reported incidents of alleged criminal child abuse and ensure that DHS is notified as required by law.

### 329.3 MANDATORY NOTIFICATION

Members of the West Linn 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 who is either (ORS 419B.005(2)):

- (a) Under 18 years of age.
- (b) A child in care as defined in ORS 418.257.

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) and OAR 413-015-0115.

#### 329.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (ORS 419B.015; 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 child abuse requires an immediate joint response.

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- (b) Verbal, electronic transmission, or hand-delivered notification to DHS of all other reports of child abuse shall be made by the end of the next business day.
- (c) Notification, when possible, should include:
  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 child abuse, including any evidence of previous abuse.
  5. The explanation given for the child abuse.
  6. Where the child abuse 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 child abuse and the identity and whereabouts of the perpetrator.
  9. The name and contact information for the assigned DHS worker and officer.

If the alleged child abuse occurred at a facility or was perpetrated by a person from a facility that requires a state license from the Department of Early Learning and Care (DELIC) (e.g., child care facility), notification and the outcome of the investigation shall also be reported to DELIC (ORS 419B.020).

If the alleged child abuse occurred in a school or was related to a school-sponsored activity, or amounts to sexual conduct under ORS 339.370, notification and the outcome of the investigation shall also be reported to the Department of Education (ORS 419B.020).

#### **329.4 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).

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#### **329.5 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:

- (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).

##### **329.5.1 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 cause to be photographed any visible injuries or any injuries identified by the child if practicable, 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 maintained by the Department 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

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officer shall ensure that the child is evaluated by an available physician, licensed physician assistant, or licensed nurse practitioner.

#### **329.5.2 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 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 suspected victim, the investigating officer should inquire whether the child has any disabilities that may affect the interview process. 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).

#### **329.6 PROTECTIVE CUSTODY**

Before taking any child into protective custody, the officer should make reasonable attempts to contact DHS. Generally, removal of a child from the child's 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 the child's 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

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##### **329.6.1 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.
- (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).

##### **329.6.2 SAFE HAVEN PROVISION**

A parent may leave an infant who is not more than 60 days old at an authorized facility, including this department, as long as the child displays no signs of abuse (ORS 418.017).

When an infant is surrendered to this department, members of the West Linn Police Department shall follow the provisions set forth in ORS 418.017.

#### **329.7 INTERVIEWS**

##### **329.7.1 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.

##### **329.7.2 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.

#### **329.8 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



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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 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.

#### **329.9 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.

##### **329.9.1 SUPERVISOR RESPONSIBILITIES**

The Detective Unit 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 Unit 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.

##### **329.9.2 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 Unit supervisor so an interagency response can begin.

#### **329.10 STATE MANDATES AND OTHER RELEVANT LAWS**

Oregon requires or permits the following:

##### **329.10.1 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).

#### **329.10.2 COUNTY MULTIDISCIPLINARY CHILD ABUSE TEAM AND PROTOCOL**

The Detective Unit 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).

#### **329.10.3 CHILD FATALITY REVIEW TEAMS**

This department should cooperate with any child fatality review team and investigation (ORS 418.785).

#### **329.10.4 DISPOSITION OF INVESTIGATION**

Each investigation of child abuse shall be concluded with one of the following dispositions (ORS 419B.026):

- Founded
- Unfounded
- Undetermined

If the investigation determines that the child abuse allegations were founded, the investigating officer shall notify DHS by making an oral report and a written report pursuant to DHS protocols (ORS 419B.020).

#### **329.11 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

### 331.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

#### 331.1.1 DEFINITIONS

Definitions related to this policy include:

**At risk** - This includes persons who:

- (a) Are 13 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.

### 331.2 POLICY

The West Linn Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation

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reveals otherwise. The West Linn Police Department gives missing person cases priority over property-related cases and does not require a specific amount of time to have passed before beginning a missing person investigation.

#### **331.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS**

The Detective Unit Supervisor shall ensure the following forms and kits are developed and available:

- Missing person report form
- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation
- Missing person school notification form
- Medical records release form
- Biological sample collection kits

#### **331.4 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.

#### **331.5 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.

#### **331.6 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).

##### **331.6.1 SUPERVISOR RESPONSIBILITIES**

The responsibilities of the supervisor shall include, but are not limited to:

- (a) Reviewing and approving missing person reports upon receipt.
  - 1. The reports should be promptly sent to the Records Division.
- (b) Ensuring resources are deployed as appropriate.
- (c) Initiating a command post as needed.
- (d) Ensuring applicable notifications and public alerts are made and documented.
- (e) Ensuring that records have been entered into the appropriate missing persons networks.
- (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

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1. If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

#### **331.6.2 RECORDS DIVISION RESPONSIBILITIES**

The responsibilities of the Records Division receiving member shall include, but are not limited to:

- (a) As soon as reasonable under the circumstances, notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's residence in cases where the missing person is a resident of another jurisdiction.
- (b) Notifying and forwarding a copy of the report to the agency of jurisdiction where the missing person was last seen.
- (c) Notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's intended or possible destination, if known.
- (d) Forwarding a copy of the report to the Detective Unit.
- (e) Coordinating with the NCIC Terminal Contractor for Oregon to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations ( 34 USC § 41308).

#### **331.7 INVESTIGATION FOLLOW-UP**

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

- (a) Should ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.
  1. The notice shall be in writing and should also include a photograph.
  2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the juvenile's student file, along with the investigator's contact information, if the school receives a call requesting the transfer of the missing child's files to another school.
- (b) Should re-contact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available.
- (c) Shall, if the person has not been located within 30 days, ensure that a biological sample, if available, is forwarded to the Oregon State Police (ORS 146.187).
- (d) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (e) Shall verify and update the Oregon LEDS, the Oregon State Police Missing Children Clearinghouse, NCIC and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).
- (f) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.

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- (g) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).
- (h) Should make appropriate inquiry with the Medical Examiner.
- (i) Should obtain and forward medical and dental records, photos, X-rays and biological samples, as applicable.
- (j) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not been obtained previously and forward the photograph to Oregon State Police and enter the photograph into applicable missing person networks (34 USC § 41308).
- (k) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).
- (l) In the case of an at-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

#### **331.8 WHEN A MISSING PERSON IS FOUND**

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the reporting party and other involved agencies and refer the case for additional investigation if warranted.

The Assistant to the Chief of Police/Records Supervisor shall ensure that, upon receipt of information that a missing person has been located, the following occurs:

- (a) Notification is made to the Oregon State Police.
- (b) A missing child's school is notified.
- (c) Entries are made in the applicable missing person networks.
- (d) When a person is at-risk, the fact that the person has been found should be reported within 24 hours to the Oregon State Police.
- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation.
- (f) All information and materials obtained for the purpose of identifying the missing person are destroyed if the person is found, or sealed if the person is found to be no longer living (ORS 146.189(2)).

#### **331.8.1 UNIDENTIFIED PERSONS**

Department members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

- (a) Obtain a complete description of the person.
- (b) Enter the unidentified person's description into the NCIC Unidentified Person File.

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- (c) Use available resources, such as those related to missing persons, to identify the person.

#### **331.9 CASE CLOSURE**

The [Shift](#) Supervisor may authorize the closure of a missing person case after considering the following:

- (a) Closure is appropriate when the missing person is confirmed returned or evidence matches an unidentified person or body.
- (b) If the missing person is a resident of West Linn or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.
- (c) If this department is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks, as appropriate.
- (d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

#### **331.10 TRAINING**

Subject to available resources, the Training Coordinator should ensure that members of this department whose duties include missing person investigations and reports receive training that includes:

- (a) The initial investigation:
  - 1. Assessments and interviews
  - 2. Use of current resources, such as Mobile Audio Video (MAV)
  - 3. Confirming missing status and custody status of minors
  - 4. Evaluating the need for a heightened response
  - 5. Identifying the zone of safety based on chronological age and developmental stage
- (b) Briefing of department members at the scene.
- (c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).
- (d) Verifying the accuracy of all descriptive information.
- (e) Initiating a neighborhood investigation.
- (f) Investigating any relevant recent family dynamics.
- (g) Addressing conflicting information.



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- (h) Key investigative and coordination steps.
- (i) Managing a missing person case.
- (j) Additional resources and specialized services.
- (k) Update procedures for case information and descriptions.
- (l) Preserving scenes.
- (m) Internet and technology issues (e.g., Internet use, cell phone use).
- (n) Media relations.
- (o) Interacting with individuals with cognitive impairment, including dementia, intellectual and developmental disabilities, and brain injuries (2014 Oregon Laws c. 24 § 2).

## Public Alerts

### 333.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

### 333.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), reverse 911, local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

### 333.3 RESPONSIBILITIES

#### 333.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the West Linn Police Department should notify their supervisor, Shift Supervisor or Detective Unit Supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person or gathering information.

#### 333.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Division Captain and the Public Information Officer when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

- (a) Updating alerts
- (b) Cancelling alerts
- (c) Ensuring all appropriate reports are completed
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Division Captain

### 333.4 AMBER ALERTS

The Oregon AMBER Alert is a voluntary partnership between law enforcement agencies and local broadcasters to rapidly disseminate an emergency alert to the public when a child is abducted under emergency circumstances and the child may be in danger of serious bodily harm or death.

#### 333.4.1 CRITERIA

All of the following criteria must exist before an AMBER Alert will be issued:

- (a) There is confirmation that a child abduction has occurred.

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- (b) The child is under 18 years of age.
- (c) The child may be in danger of serious bodily harm or death.
- (d) There is sufficient descriptive information about the child, abductor and/or the suspect's vehicle to believe that an immediate broadcast alert will help.
- (e) The child's name and other critical data elements, including the child abduction (CA) and AMBER Alert (AA) flags, either have been or will be entered into the National Crime Information Center (NCIC) system.

An AMBER Alert should not be used if the child is a runaway or has been abducted as a result of a child custody situation, unless the child may be in danger of serious bodily harm or death.

#### 333.4.2 PROCEDURE

The AMBER Alert Web Portal is used to post the appropriate alert information.

Prior to posting the AMBER Alert message, consideration should be given to ensuring adequate staffing for the tip line, 9-1-1 lines and any 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 mutual aid from other agencies should be considered.

- (a) The Public Information Officer, Shift Supervisor or Administrative Services/ Investigations Supervisor should consider whether to prepare a press release that includes all available information that might aid in locating the child, such as:
  - 1. The child's identity, age, physical and clothing description, including any distinguishing characteristics.
  - 2. Photograph, if available.
  - 3. The location where the abduction occurred or where the child was last seen.
  - 4. The suspect's identity, age, physical and clothing description, if known.
  - 5. Pertinent vehicle license number and description, if known.
  - 6. Detail regarding direction of travel and potential destinations, if known.
  - 7. Contact information for the Public Information Officer or other authorized individual to handle media liaison.
  - 8. A telephone number for the public to call with leads or information.
- (b) Information on the abducted child, suspect vehicle and suspect should be entered into the Law Enforcement Data System (LEDS) and 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 the resources of the National Center for Missing and Exploited Children (NCMEC) and the FBI.

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- (c) 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."
- (d) 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.
- (e) Consideration should be given to whether to utilize the following resources:
  - 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 Oregon State Police Missing Children Clearinghouse is available to assist agencies with any additional notifications or to serve as the liaison with NCMEC.

## Victim and Witness Assistance

### 335.1 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.

### 335.2 POLICY

The West Linn Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the West Linn Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

### 335.3 CRIME VICTIM LIAISON

The Chief of Police may appoint a member of the Department to serve as the crime victim liaison. The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the West Linn Police Department regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

#### 335.3.1 CRIME VICTIM LIAISON DUTIES

The crime victim liaison is specifically tasked with the following:

- (a) Providing oral or written notice to crime victims of the Oregon Crime Victim Bill of Rights. This may be accomplished by providing the information in victim handouts or providing the notice electronically (ORS 147.417).
- (b) Sexual assault investigations (ORS 181A.325):
  1. Receiving and responding to all inquiries concerning sexual assault kits.
  2. Providing any information the victim requests concerning sexual assault kits in a manner of communication designated by the victim, as soon as possible and within 30 days of the inquiry unless doing so would interfere with the investigation. This information includes the location, testing date and testing results of a kit, whether a DNA sample was obtained from the kit, whether or not there are matches to DNA profiles in state or federal databases, and the estimated destruction date for the kit.
  3. Acting as liaison with the Oregon State Police (OSP) regarding submitted kits.
  4. Allowing a sexual assault victim to provide written authorization for a designee to access information on the victim's behalf.
  5. Upon request, provide victim with assistance in the creation of a sexual assault report associated with the sexual assault kit.

### 335.4 CRIME VICTIMS

Officers should provide all victims with the applicable victim information handouts.

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Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

#### 335.4.1 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).

#### 335.5 VICTIM INFORMATION

The Administrative Services/Investigations Division Captain shall ensure that victim information handouts are available and current. These should include as appropriate:

- (a) Shelters and other community resources for victims, including domestic violence and sexual assault victims.
- (b) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109).
- (c) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (d) A clear explanation of relevant court orders and how they can be obtained.
- (e) Information regarding available compensation for qualifying victims of crime.
- (f) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (g) Notice regarding U visa and T visa application processes.
- (h) Resources available for victims of identity theft.
- (i) A place for the officer's name, badge number, and any applicable case or incident number.
- (j) A statement of legal rights and remedies available to victims of abuse, as required by ORS 133.055.
- (k) Information about the Address Confidentiality Program. This program is from the Oregon Department of Justice, Crime Victims and Survivor Services Division for victims of domestic violence, sexual offenses, stalking, bias crimes, or human trafficking (ORS 192.826).
- (l) Oregon Crime Victim Bill of Rights (ORS 147.417).

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- (m) Information for victims of sexual assault that includes but is not limited to (ORS 181A.325).
  - 1. Contact information for the crime victim liaison for victims of sexual assault.
  - 2. Notice that victims may request and receive information concerning sexual assault kits if providing the information would not interfere with the investigation.
- (n) The hate crimes telephone hotline for assisting the victims of bias crimes and bias incidents (ORS 147.380).

#### **335.6 WITNESSES**

Officers should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

## **BIAS CRIMES AND INCIDENTS**

### **337.1 PURPOSE AND SCOPE**

This department recognizes and places a high priority on the rights of all individuals guaranteed under the Constitution and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this department utilizes all available resources to see that justice is served under the law. Members of this department are committed to identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

#### **337.1.1 DEFINITIONS**

**Bias Crime** - includes 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.

**Bias Incident** - means a person's hostile expression of animus toward another person, relating to the other person's perceived race, color, religion, disability, gender identity, sexual orientation, or ethnicity/national origin, of which criminal investigation or prosecution is impossible or inappropriate.

### **337.2 PREVENTION AND PREPARATION**

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 bias crimes by:

1. Making an affirmative effort to establish contact with persons and groups within the community who are likely targets of bias crimes and incidents and forming networks that address prevention and response.
2. Providing victim assistance and community follow-up or identifying available resources to do so, in accordance with the parameters within Oregon Senate Bill 577.
3. Educating community and civic groups about bias crime laws.

### **337.3 INVESTIGATIONS**

Whenever any member of this department receives a report of a suspected bias crime, bias incident, or other activity that reasonably appears to involve potential bias, the following should occur:

1. Assigned officers shall promptly contact the victim, witness, or reporting party to investigate the matter further, as circumstances may dictate.
2. A supervisor should be notified of the circumstances as soon as practicable.
3. Once the in-progress aspect of any such situation has been stabilized (i.e., treatment of victims or arrest of the suspect at the scene), the assigned officers shall take reasonable steps to preserve evidence that established a possible bias crime or incident.



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4. Based upon available information, officers shall take appropriate action to mitigate further injury or damage to potential victims or the community.
5. Depending on the situation, the assigned officers or supervisor may request assistance from investigators or other resources.
6. The assigned officers should interview available witnesses, victims, and others to determine what circumstances, if any, indicate that the situation may involve a bias crime or bias incident.
7. The assigned officers shall assist bias crime and bias incident victims to make a referral to the Bias Hotline or the [StandAgainstHate.oregon.gov](http://StandAgainstHate.oregon.gov) website, in accordance with ORS 147.380.
8. The assigned officer shall include all available evidence indicating the likelihood of a bias crime or bias incident in relevant police reports. All related reports shall clearly be indicated as such by checking "BIAS" in the report writing program.

#### **337.3.1 DETECTIVES UNIT RESPONSIBILITIES**

If a bias crime is assigned to the Detectives unit, the assigned investigator will be responsible for:

1. Coordinating further investigation with the City Attorney or District Attorney and other appropriate law enforcement agencies.
2. Maintaining contact with the victims and other involved individuals, as needed.

#### **337.3.2 RECORDS DIVISION RESPONSIBILITIES**

The Records division will be responsible for maintaining statistical data and tracking of suspected bias crimes and bias incidents, as indicated by state law.

#### **337.4 TRAINING**

All members of this department shall receive training on bias crime and bias incident recognition and investigation.

## Standards of Conduct

### 339.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the West Linn 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.

### 339.2 POLICY

The continued employment or appointment of every member of the West Linn Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

### 339.3 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.

#### 339.3.1 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.
- (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.

### 339.4 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.

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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.

##### **339.4.1 DUTY TO INTERVENE AND REPORT**

An officer who observes another officer engaging in misconduct or a violation of the minimum standards for physical, emotional, intellectual, and moral fitness for public safety personnel under ORS 181A.410 shall intervene to prevent or stop the conduct unless the officer cannot intervene safely. An officer who witnesses such conduct shall report the misconduct or violation as soon as practicable, but not later than 72 hours after witnessing the misconduct or violation to a direct supervisor, chain of command, or the Department of Public Safety Standards and Training (DPSST) (ORS 181A.681).

Failure to intervene or report the misconduct is grounds for discipline by the Department or suspension or revocation of the officer's certification by the DPSST (ORS 181A.681; ORS 181A.683).

Misconduct means (ORS 181A.681):

- (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, gender identity, national origin, disability, or age.
- (d) A crime.

##### **339.5 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.

##### **339.5.1 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.

##### **339.5.2 ETHICS**

- (a) Using or disclosing one's status as a member of the West Linn Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.

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- (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.

#### 339.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

#### 339.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

#### 339.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.

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- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

#### 339.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this department.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and nonsubpoenaed records.

#### 339.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including but not limited to failure incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.
- (f) Failure to notify the Human Resources Department of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

#### 339.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.

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- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
  - 1. While on department premises.
  - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
  - 3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
  - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
  - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or on department property except as expressly authorized by City policy, the collective bargaining agreement, or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the collective bargaining agreement, or the Chief of Police.
- (i) Any act on- or off-duty that brings discredit to this department.

#### 339.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.

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- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any collective bargaining agreement or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on-duty or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

#### 339.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

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##### 339.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.



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# Information Technology Use

## 341.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

### 341.1.1 DEFINITIONS

Definitions related to this policy include:

**Computer system** - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the West Linn Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

**Hardware** - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

**Software** - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

**Temporary file, permanent file or file** - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

## 341.2 POLICY

It is the policy of the West Linn Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

## 341.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published, shared, transmitted, or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any department computer system.

The Department reserves the right to access, audit, and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received, or reviewed over any technology that is issued or maintained by the Department, including the department email system, computer network, and/or any information placed into storage on any department system or device. This includes records of all keystrokes 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 a username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices, or networks.

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#### **341.4 RESTRICTED USE**

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Shift Supervisors.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

##### **341.4.1 SOFTWARE**

Members 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 a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any department computer. Members shall not install personal copies of any software onto any department computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Chief of Police or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Department while on department premises, computer systems or electronic devices. Such unauthorized use of software exposes the Department and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as part of the automated maintenance or update process of department- or City-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

##### **341.4.2 HARDWARE**

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation or who otherwise have a legitimate law enforcement or department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

##### **341.4.3 INTERNET USE**

Internet access provided by or through the Department shall be strictly limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include but are not limited to adult forums, pornography, gambling, chat rooms, and similar or related internet sites. Certain

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exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information shall be limited to messages, mail, and data files.

#### **341.4.4 OFF-DUTY USE**

Members shall only use technology resources provided by the Department while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access department resources.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

#### **341.5 PROTECTION OF AGENCY SYSTEMS AND FILES**

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the computer system.

Members shall ensure department computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off, and password protections enabled whenever the user is not present. Access passwords, logon information, and other individual security data, protocols, and procedures are confidential information and are not to be shared. Password length, format, structure, and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the internet) to a supervisor.

#### **341.6 INSPECTION OR REVIEW**

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department involving one of its members or a member's duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by a supervisor or during the course of regular duties that require such information.

## Report Preparation

### 343.1 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.

#### 343.1.1 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.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

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.

#### 343.1.2 CASE MANAGEMENT

Case management is the process by which the department manages its investigative resources. All reports written by the department will be sent through the case management process to determine what follow up, or action if any will be taken.

The Case Manager role is held by the Shift Sergeant.

Follow up investigations will be assigned a due date, and if the department member is unable to finish the assignment they will notify the Case Manager via the computerized notification and calendar scheduling on the City email system.

### 343.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

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##### 343.2.1 CRIMINAL ACTIVITY REPORTING

When a member 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 member shall document the incident regardless of whether a victim desires prosecution.

Activity to be documented in a written report includes:

- (a) All arrests
- (b) All felony crimes
- (c) Non-felony incidents involving threats or stalking behavior
- (d) Situations covered by separate policy. These include:
  - 1. Use of Force Policy
  - 2. Domestic Violence Policy
  - 3. Child Abuse Policy
  - 4. Adult Abuse Policy
  - 5. Hate Crimes Policy
  - 6. Suspicious Activity Reporting Policy
- (e) All misdemeanor crimes where the victim desires a report

Misdemeanor crimes where the victim does not desire a report shall be documented using the department-approved alternative reporting method (e.g., a dispatch log).

##### 343.2.2 NON-CRIMINAL ACTIVITY

If the facts support, the 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 Policy)
- (d) Any time a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)
- (e) Any found property or found evidence (unless the owner of the found property is contacted and the officer can either return the property or schedule pick up at the police department).
- (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

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- (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

#### 343.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with Death Investigations Policy. An officer handling a death investigation should notify and apprise a supervisor of the circumstances surrounding the incident and a determination will be made on how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

- (a) Sudden or accidental deaths
- (b) Suicides
- (c) Homicide or suspected homicide
- (d) Unattended deaths (No physician or qualified hospice care during the period immediately preceding death)
- (e) Found dead bodies or body parts

#### 343.2.4 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.

#### 343.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this department shall require a report when:

- (a) The injury is a result of drug overdose (If the facts support).
- (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.

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.

#### 343.2.6 ALTERNATE REPORTING FOR VICTIMS

Reports that may be submitted by the public via online or other self-completed reporting processes include:

- (a) Lost property.
- (b) Misdemeanor thefts of property, other than firearms or materials that threaten public safety, when there is no suspect information, serial number or ability to trace the item.

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1. Misdemeanor thefts of cellular telephones may be reported even though they have a serial number.
  - (c) Misdemeanor vandalism with no suspect information and no hate crime implications.
  - (d) Vehicle burglaries with no suspect information or evidence.
  - (e) Stolen vehicle attempts with no suspect information or evidence.
  - (f) Annoying telephone calls with no suspect information.
  - (g) Identity theft without an identifiable suspect.
  - (h) Online or email fraud solicitations without an identifiable suspect and if the financial loss classifies the crime as a misdemeanor.
  - (i) Hit-and-run vehicle collisions with no suspect or suspect vehicle.
  - (j) Supplemental property lists.

Members at the scene of one of the above incidents should not refer the reporting party to an alternate means of reporting without authorization from a supervisor. Members may refer victims to online victim assistance programs (e.g., Federal Communications Commission (FCC) website for identity theft, Internet Crime Complaint Center (IC3) website for computer crimes).

#### **343.3 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 (using current practices). 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.

#### **343.4 REPORT CORRECTIONS**

A sergeant or OIC shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor will flag the report in the MRE as "CORRECTION" and notify the reporting employee stating the reasons for the rejection. It shall be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner.

The supervisor is responsible for ensuring the report is complete, has all the necessary forms submitted, and the content of the report sufficiently articulates the officer's actions and justifications for those actions.

#### **343.5 REPORT CHANGES OR ALTERATIONS**

Reports that have been approved by a supervisor and submitted to the Records Division 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 Division may be corrected or modified by the authoring employee only with the knowledge and authorization of the reviewing supervisor.

## News Media Relations

### 345.1 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.

### 345.2 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 or Division Commanders has given prior approval, Sergeants, and designated Public Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

#### 345.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or 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, unless that information would normally be released to the general public. As an example, if a media representative asks an officer on a perimeter "what is going on," and the officer replies to wait for the PIO, but when asked by a citizen what is going on, the officer tells them "it's a house fire, or a warrant service" that sort of general information can be told to the media, prior to the arrival of the PIO. This is for a general inquiry only, information regarding individuals, or ongoing investigations should not be released to the media or the public.
- (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) Under no circumstance should any member of this department make any comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

### 345.3 MEDIA ACCESS

Authorized members of the media may 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.



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- (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 should consider requesting a Temporary Flight Restriction (TFR). 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.

A tactical operation should be handled in the same manner as a crime scene, except that the news media may 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.

#### 345.3.1 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.

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#### **345.4 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 Public Information Officer. 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 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 Policy Manual § 810.43.

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 Public Information Officer. Such requests will generally be processed in accordance with the provisions of this policy.

#### **345.4.1 SCOPE OF INFORMATION SUBJECT TO RELEASE**

The release and inspection of public records is controlled by Policy Manual § 810 and Oregon Revised Statutes 192.410 through 192.505, and the "Oregon Bar-Press-Broadcasters Joint statement of Principles" adopted in 1962 and revised in 1993

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

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- (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

#### 345.4.2 RESTRICTED INFORMATION

It shall 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 Policy Manual § 810.
- (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. Oregon Revised Statutes 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 Policy Manual § 1026).
  - 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 (Oregon Revised Statutes 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 Detective Supervisor in charge of an investigation.

## Court Appearance and Subpoenas

### 347.1 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.

#### 347.1.1 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.

### 347.2 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.

#### 347.2.1 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 Assistant to the Chief of Police/Records Supervisor or to the Shift Supervisor at least 10 days prior to the appearance date shown on the subpoena.

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- (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 notified, the subpoena clerk will contact the court and advise them of the inability to contact the employee.

#### 347.2.2 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.

#### 347.2.3 ACCEPTANCE OF SUBPOENA

- (a) Only the employee named in a subpoena, his/her immediate supervisor or the department Assistants to The Chief of Police and Captains 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 Assistant to The Chief of Police. The Assistant to The Chief of Police 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 prior to service.

#### 347.2.4 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 72-hours of any change in residence address or home 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 Assistant to The Chief of Police 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.

#### 347.2.5 OFF-DUTY RELATED SUBPOENAS

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with the West Linn 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.

#### 347.2.6 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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#### **347.3 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 may directed by the current bargaining agreement, or Personnel Rules.

The Department will receive reimbursement for the officer's compensation through the civil attorney of record who subpoenaed the officer.

##### **347.3.1 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.

##### **347.3.2 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).

##### **347.3.3 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.

#### **347.4 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.

#### **347.5 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.

##### **347.5.1 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.

##### **347.5.2 COURTROOM ATTIRE**

Employees shall dress in uniform, or suitable business attire as approved by the department.

#### **347.6 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.

#### **347.7 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

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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

### 349.1 PURPOSE AND SCOPE

The West Linn 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.

### 349.2 SELECTION & APPOINTMENT OF POLICE RESERVE OFFICERS\_DEPUTIES

The West Linn 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.

#### 349.2.1 PROCEDURE

All applicants shall be required to meet and pass the same pre-employment procedures as regular police officers before appointment.

#### 349.2.2 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.

#### 349.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS\_DEPUTIES

Compensation for reserve officers is provided as follows:

All reserve officer appointees are issued two sets of uniforms. All property issued to the reserve officer shall be returned to the Department upon termination or resignation.

#### 349.2.4 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 Human Resources Department prior to an employee serving in a reserve or volunteer capacity (29 C.F.R.553.30).

### 349.3 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 Patrol 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 or two shifts per month as set by the departments Reserve Coordinator.



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##### **349.3.1 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.

##### **349.3.2 RESERVE OFFICER ASSIGNMENTS**

All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

##### **349.3.3 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.

#### **349.4 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 Policy Manual § 350.4.3.

##### **349.4.1 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 and Reserve Coordinator approval.

##### **349.4.2 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) 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.

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##### 349.4.3 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 West Linn 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 Training Coordinator 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.

##### 349.4.4 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.

##### 349.4.5 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 Shift Supervisor.

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.

##### 349.4.6 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.

##### 349.4.7 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

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for the remaining 200-hour requirement for a total of 484 hours before being considered for relief of immediate supervision.

#### **349.5 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.

##### **349.5.1 SPECIAL AUTHORIZATION REQUIREMENTS**

Reserve officers certified as Level II may, with prior authorization of the Reserve Coordinator and on approval of the Division 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 Division Captain, the Shift Supervisor may assign a certified Level II reserve officer to function as above for specific purposes and duration.

##### **349.5.2 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.

##### **349.5.3 IDENTIFICATION OF RESERVE OFFICERS**

All reserve officers will be issued a uniform badge and a Department identification card. The uniform badge shall be similar as that worn by a regular full-time officer and have the word "Reserve" on it. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

##### **349.5.4 UNIFORM**

Reserve officers shall conform to all uniform regulation and appearance standards of this department.

##### **349.5.5 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 Patrol Division Commander.

Reserve officers are considered at-will employees.

Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

##### **349.5.6 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

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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.

#### **349.6 FIREARMS REQUIREMENTS**

Reserve officer have peace officer powers during his/her assigned tour of duty.

##### **349.6.1 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.

##### **349.6.2 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.

##### **349.6.3 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.

##### **349.6.4 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.

#### **349.7 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL**

The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.

#### **349.8 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:

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- (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 a.

## Mutual Aid and Outside Agency Assistance

### 351.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

### 351.2 POLICY

It is the policy of the West Linn Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

### 351.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Shift Supervisor's office for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Shift Supervisor may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this department will not ordinarily be booked at this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

#### 351.3.1 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the West Linn Police Department shall notify his/her supervisor or the Shift Supervisor and LOCOM as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

### 351.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

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The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

#### **351.5 REPORTING REQUIREMENTS**

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by the Shift Supervisor.

#### **351.6 MANDATORY SHARING**

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Administrative Services/Investigations Division Captain or the authorized designee.

The documentation should include:

- (a) The conditions relative to sharing.
- (b) The training requirements for:
  - 1. The use of the supplies and equipment.
  - 2. The members trained in the use of the supplies and equipment.
- (c) Any other requirements for use of the equipment and supplies.

Copies of the documentation should be provided to LOCOM and the Shift Supervisor to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Training Coordinator should maintain documentation that the appropriate members have received the required training.

## Registered Offender Information

### 355.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the West Linn 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.

### 355.2 POLICY

It is the policy of the West Linn Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

### 355.3 REGISTRATION

The Detective Unit Supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Employees assigned to register offenders should receive appropriate training regarding the registration process (OAR 257-070-0100).

Upon conclusion of the registration process, the investigator shall ensure that the registration information is provided to the Oregon State Police in accordance with ORS 163A.035 and OAR 257-070-0100.

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to report.

#### 355.3.1 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.

### 355.4 MONITORING OF REGISTERED OFFENDERS

The Detective Unit supervisor should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

- (a) Efforts to confirm residence using an unobtrusive method, such as an Internet search or drive-by of the declared residence.
- (b) Review of information on the State of Oregon Sex Offender Inquiry System.



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- (c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to Oregon State Police.

The Detective Unit supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to West Linn Police Department personnel, including timely updates regarding new or relocated registrants.

#### **355.5 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 West Linn Police Department's website.

The Assistant to the Chief of Police/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).

##### **355.5.1 RELEASE NOTIFICATIONS**

Registrant information that is released should include notification that:

- (a) The offender registry includes only those persons who have been required by law to register, who are in compliance with the offender registration laws and who the law permits to be included.
- (b) The information is provided as a public service and may not be current or accurate.
- (c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.
- (d) The information on the registry may not reflect the entire criminal history of a registered offender.
- (e) Anyone who uses information contained in the registry to harass or discriminate against registrants or commit any crime may be subject to criminal prosecution and/or civil action.

## Major Incident Notification

### 357.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

### 357.2 POLICY

The West Linn Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

### 357.3 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 Division 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 Shootings and Deaths 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

### 357.4 SHIFT SUPERVISOR RESPONSIBILITY

The Shift Supervisor is responsible for making the appropriate notifications. The Shift Supervisor shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Shift Supervisor shall attempt to make the notifications as soon as practicable. Notification should be made during off-duty hours by calling the home telephone number first and then by cellular telephone.

#### 357.4.1 STAFF NOTIFICATION

In the event an incident occurs described in [Policy Manual § 358.3](#), the Chief of Police shall be notified along with the Patrol Division and Administrative/ Investigations Division Captains the Detective Sergeant if that division is affected and the Public Information Officer.

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##### 357.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the Detective Sergeant shall be contacted who will then contact the appropriate detective.

##### 357.4.3 CRASH RECONSTRUCTION AND FORENSIC TEAM CALL OUT

In the event of a traffic fatality or major injury, the Patrol Supervisor shall notify the department Crash Investigator, who will then notify the Crash Reconstruction and Forensic Team (CRAFT), as appropriate.

##### 357.4.4 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

### 359.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers initially respond to and investigate the circumstances of a deceased person.

Some causes of death may not be readily apparent, and some cases differ substantially from what they appear to be initially. The thoroughness of death investigations and use of appropriate resources and evidence gathering techniques is critical.

### 359.2 INVESTIGATION CONSIDERATIONS

Emergency medical services shall be called in all suspected death cases unless death is obvious (e.g., decapitated, decomposed).

A supervisor shall be notified as soon as possible to assist and provide appropriate personnel and resources. The on-scene supervisor should determine whether follow-up investigation is required and notify the Detective Sergeant and Captain as necessary. The Shift Supervisor will make notification to command staff in accordance with the Major Incident Notification Policy.

#### 359.2.1 MEDICAL EXAMINER REQUEST

Officers are not authorized to pronounce death unless they are also Medical Examiners, Deputy Medical Examiners, or appointed Medical Examiner investigators. The Medical Examiner shall be called in all sudden or unexpected deaths or deaths due to other than natural causes. State law requires that the Medical Examiner be notified immediately of any death (ORS146.090; ORS 146.100):

- (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.

#### 359.2.2 SEARCHING DEAD BODIES

- (a) The Medical Examiner, their assistant, and authorized investigators are generally the only persons permitted to move, handle, or search a dead body (ORS 146.103).

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- (b) An officer shall make a reasonable search of an individual who it is reasonable to believe is dead or near death for the purpose of identification or for information identifying the individual as an anatomical donor. If a donor document is located, the Medical Examiner or their assistant shall be promptly notified, or, if the individual was taken to a hospital, the officer must alert the hospital staff to the documentation and forward it to the hospital (ORS 97.970).
- (c) The Medical Examiner, with the permission of the Department, may take property, objects or articles found on the deceased or in the immediate vicinity of the deceased that may be necessary for conducting an investigation to determine the identity of the deceased or the cause or manner of death (ORS 146.103).
- (d) Should exigent circumstances indicate to an officer that any other search of a known dead body is warranted prior to the arrival of the Medical Examiner or their assistant, the investigating officer should first obtain verbal consent from the Medical Examiner or their assistant when practicable.
- (e) Whenever reasonably possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain nearby the scene and available to the officer pending the arrival of the Medical Examiner or their assistant. The name and address of this person shall be included in the narrative of the death report.
- (f) Whenever personal effects are removed from the body of the deceased by the Medical Examiner or their assistant, a receipt shall be obtained. This receipt shall be attached to the death report.

#### 359.2.3 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the officer shall take steps to protect the scene. The Detective Unit shall be notified to determine the possible need for an investigator to respond to the scene.

If the on-scene supervisor, through consultation with the Detective Unit supervisor, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide.

The investigator assigned to investigate a homicide or death that occurred under suspicious circumstances may, with the approval of their supervisor, request the Medical Examiner to conduct physical examinations and tests, and to provide a report.

#### 359.2.4 REPORTING

All incidents involving a death shall be documented on the appropriate form.

#### 359.2.5 EMPLOYMENT-RELATED DEATHS OR INJURIES

Any member of this department who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment should ensure that the regional Occupational Safety and Health Administration (OSHA) office is notified of all pertinent information.

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##### **359.3 POLICY**

It is the policy of the West Linn Police Department to respond, document, and investigate incidents where a person is deceased. Investigations involving the death of a person, including those from natural causes, accidents, workplace incidents, suicide, and homicide, shall be initiated, conducted, and properly documented.

##### **359.4 UNIDENTIFIED DEAD BODY**

If the identity of a dead body cannot be established, the handling officer will request from the Medical Examiner a unique identifying number for the body. The number shall be included in any report.

##### **359.5 DEATH NOTIFICATION**

When reasonably practicable, 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 a department representative familiar with 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 a deceased person has been identified as a missing person, this department shall attempt to locate family members and inform them of the death and location of the deceased missing person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports.

## Identity Theft

### 361.1 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.

### 361.2 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) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate personnel for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

## Private Persons Arrests

### 363.1 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).

### 363.2 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.

### 363.3 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.

#### 363.3.1 SHOPLIFTER IN CUSTODY

The West Linn Police Department responds to numerous calls from service from retail establishments within the City to assist store personnel with shoplifters who have been taken into custody by security personnel. This procedure will outline the officer's responsibilities.

When a store calls regarding a shoplifter in custody, LOCOM will ascertain if the person detained is cooperative or combative, the person's name, and date of birth. The dispatchers will then assign the appropriate officer, i.e. district car, School Resource Officer etc. Dispatch will check the detained person for warrants, and advise the officers of that status while en-route, or when initially dispatching the call.

If the detained person is combative, or not cooperative, LOCOM will send two cars immediately. If the person is cooperative, only one car is dispatched.

The reports will then be forwarded to the appropriate channels by the Records Unit.



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#### **363.4 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 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.

#### **363.5 REPORTING REQUIREMENTS**

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a department Custody Report form.

In addition to the Custody Report signed by the private party (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

## Limited English Proficiency Services

### 367.1 PURPOSE AND SCOPE

Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency (LEP) from gaining meaningful access to, or an understanding of important rights, obligations and services. It is therefore the policy of this department to take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin or primary language (Title VI of the Civil Rights Act of 1964, § 601, 42 USC § 2000d).

#### 367.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - Any employee who is bilingual and has successfully completed department-prescribed interpreter training and is authorized to act as an interpreter or translator.

**Bilingual** - The ability to communicate in two languages fluently, including the ability to communicate technical and law enforcement terminology. Bilingual includes a variety of skill levels. For example, some bilingual individuals may be fluent enough to engage in direct communications in a non-English language but insufficiently fluent to interpret or translate from one language into another. For example, a bilingual individual, depending on his/her skill level, could be utilized to communicate fluently in a non-English language but not to interpret between two languages if he/she does not possess the specialized skills necessary to interpret between two languages effectively. In order to be utilized to interpret or translate from one language into another, an individual must possess the skill, training, and demonstrated competence to do so. For purposes of this policy, in order to be identified as bilingual, employees must initially and periodically demonstrate through a procedure to be established by the Department, their level of skill and competence such that the Department is able to determine the purposes for which an employee's language skills may be used.

**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)** - Designates individuals whose primary language is not English and who have a limited ability to read, write, speak, or understand English. LEP 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.

**Translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 367.2 FOUR FACTOR ANALYSIS

Since there are potentially hundreds of languages department personnel could encounter, the Department will utilize the four-factor analysis outlined in the Department of Justice *LEP Guidance*

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to Federal Financial Assistance Recipients in determining which measures will provide reasonable and meaningful access to various rights, obligations, services and programs to everyone. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis therefore, must remain flexible and requires an ongoing balance of the following four factors:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department personnel or who may benefit from programs or services within the Department's jurisdiction or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department personnel, 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.

As indicated above, the intent of this analysis is to provide a balance that reasonably ensures meaningful access by LEP individuals to critical services while not imposing undue burdens on the Department or its personnel.

While this 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, the above analysis will be utilized to determine the availability and level of assistance provided to any LEP individual or group.

#### **367.2.1 IDENTIFICATION OF LEP INDIVIDUAL'S LANGUAGE**

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language in an effort to avoid misidentifying that language.

#### **367.3 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 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.

#### **367.3.1 BILINGUAL PERSONNEL**

Personnel utilized for LEP services need not be certified as interpreters, but must have demonstrated, through established department procedures, a level of competence to ascertain whether the language skills are best suited to monolingual communications, interpretation, translation, or all or none of these functions. All personnel used for communication with LEP individuals must demonstrate knowledge of the functions of an interpreter and the ethical issues involved when acting as a language conduit. In addition, employees who serve as interpreters

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and/or translators must have demonstrated competence in both English and the non-English language. When bilingual personnel from this department are not available, personnel from other city departments who have the requisite training may be requested.

#### **367.3.2 WRITTEN FORMS AND GUIDELINES**

This department will determine the most frequently used and critical forms and guidelines and translate these documents into the languages most likely to be requested. The Department will arrange to make these translated forms available to department personnel and other appropriate individuals.

#### **367.3.3 AUDIO RECORDINGS**

The Department may develop audio recordings of information that is either important to or frequently requested by LEP individuals for broadcast in a language most likely to be understood by involved LEP individuals.

#### **367.3.4 TELEPHONE INTERPRETER SERVICES**

The Shift Supervisor and Dispatch Supervisor will maintain a list of qualified interpreter services. These services shall be available, with the approval of a supervisor, to assist department personnel when communicating with LEP individuals via official cellular telephones.

#### **367.3.5 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF INTERPRETATION**

Where competent bilingual department personnel or other City-certified staff are unavailable to assist, responsible members of the community who have demonstrated competence in either monolingual (direct) communication and/or in interpretation and translation (as noted above) may be called upon to assist in communication efforts. Sources for these individuals may include neighboring police departments, university languages and linguistics departments, local businesses, banks, churches, neighborhood leaders and school officials. Department personnel should ensure that community members are able to provide unbiased assistance. The nature of the contact and relationship between the LEP individual and the individual offering services must be carefully considered (e.g., victim/suspect).

Except for exigent or very informal and non-confrontational circumstances, the use of an LEP individual's bilingual friends or family members, particularly children, are generally not recommended and department personnel shall make case-by-case determinations on the appropriateness of using such individuals (for further guidance see Section V(3) of the DOJ Final Guidance available at the DOJ [website](#)).

#### **367.4 LEP CONTACT SITUATIONS AND REPORTING**

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize language services so that they may be targeted where they are most needed.

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Whenever any member of this department is required to complete a report or when other documentation and interpretation or translation services are provided to any involved LEP individual, such services should be noted in the related report.

#### 367.4.1 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

In order to provide LEP individuals with meaningful access to police services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this department has designated its 9-1-1 lines as its top priority for language services. Department personnel will make every reasonable effort to promptly accommodate such LEP individuals utilizing 9-1-1 lines through any or all of the above resources.

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.

#### 367.4.2 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 LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Department personnel must assess each situation to determine the need and availability for translation services to all involved LEP individuals and utilize the methods outlined in this policy to provide appropriate language assistance.

Although not every situation can be addressed within this policy, it is important that department personnel 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 an LEP individual. It would, for example, be meaningless to request consent to search if the person requesting is unable to effectively communicate with an LEP individual.

#### 367.4.3 INVESTIGATIVE INTERVIEWS

In any situation where the translation of an interview may contain information that might be used in a criminal trial, it is important to take certain steps to improve the chances of admissibility. 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.

Any person selected as an interpreter and/or translator must have demonstrated competence in both English and the non-English language involved and knowledge of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the case. The person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation to the court.

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##### **367.4.4 CUSTODIAL INTERROGATIONS AND BOOKINGS**

In an effort to ensure the rights of LEP individuals are protected during arrest and custodial interrogation, this department places a high priority on providing competent interpretation 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 interpretation services or translated forms in these situations will have demonstrated competence in interpretation/translation and make every reasonable effort to accurately interpret/translate all communications with LEP individuals.

In order to ensure that translations during criminal investigations are documented accurately and are admissible as evidence, audio recordings of interrogations, victim interviews and witness interviews should be used whenever reasonably possible.

Employees providing interpretation or translation services shall also be aware of the inherent communication impediments to gathering information from the LEP individual throughout the booking process or any other situation in which an LEP individual is within the control of department personnel. Medical screening questions are commonly used to elicit information on an individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, resulting symptoms upon withdrawal from certain medications, or the need to segregate the arrestee from other prisoners. Therefore it is important for members of this department to make every reasonable effort to provide effective language services in these situations.

##### **367.4.5 COMPLAINTS**

The Department shall ensure access to LEP persons who wish to file a complaint regarding the discharge of department duties. The Department may do so by providing interpretation assistance or translated forms to such individuals. If the Department responds to complaints filed by LEP individuals, the Department shall attempt to communicate its response in an accessible manner.

##### **367.4.6 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 LEP individuals and groups.

#### **367.5 TRAINING**

In an effort to ensure that all personnel in public contact positions (or having contact with those in custody) are properly trained, the Department will provide periodic training to personnel about LEP policies and procedures, including how to access department-authorized, telephonic and in-person interpreters and other available resources.

The Training Coordinator shall be responsible for ensuring all new personnel receive LEP training and that all personnel receive refresher training at least once every two years thereafter. The

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Training Coordinator shall maintain records of all LEP training provided, with a copy in each member's training file, in accordance with established records retention schedules.

#### **367.6 INTERPRETERS AND TRANSLATORS**

Department personnel who are called upon to interpret, translate, or provide other language assistance, will be trained annually on language skills competency (including specialized terminology) and ethical considerations.

- (a) **Assessment:** The West Linn Police Department personnel identified as bilingual, who are willing to act as authorized interpreters, will have their language skills assessed by a professional interpreter using a structured assessment tool established by the Training Coordinator. Personnel found proficient in interpreting into and from the target language will be placed conditionally on the authorized interpreters list.
- (b) **Training:** All personnel conditionally placed on the authorized interpreter list must successfully complete the prescribed interpreter training within one year. After successful completion of interpreter training, the individual will be unconditionally placed on the authorized interpreter list. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language; demonstrate knowledge in both languages of any specialized terms or phraseology; and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal advisor.
- (c) **Refresher course for authorized interpreters:** Personnel who have been unconditionally placed on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. The Training Coordinator shall be responsible for coordinating the annual refresher training and will maintain a record of training that the interpreters have received.

The LEP Coordinator will ensure that the authorized interpreters list is kept current and a copy forwarded to LOCOM.

#### **367.7 SUPPLEMENTAL MATERIALS PROVIDED TO DEPARTMENT EMPLOYEES**

The following materials will be made available to employees to assist in providing access and service to LEP individuals:

- A list of bilingual employees, languages spoken and contact and shift information
- A list of department-certified interpretation services, bilingual interpreters, languages spoken and contact and availability information
- The telephone number and access code of telephonic interpretation services
- Language identification cards
- Translated *Miranda* warning cards and other frequently used documents
- Audio recordings/warnings that are developed in non-English languages

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##### 367.7.1 MONITORING AND UPDATING LANGUAGE ASSISTANCE EFFORTS

The Chief of Police will appoint an LEP Coordinator who is responsible for coordinating and implementing all aspects of the West Linn Police Department services to LEP individuals.

The LEP Coordinator shall assess demographic data, review contracted language access services utilization data, and consult with community-based organizations annually in order to determine if there are additional languages into which vital documents should be translated.

The LEP Coordinator will also be responsible for annually reviewing all new documents issued by the West Linn Police Department to assess whether they should be considered vital documents and be translated.



## Hearing Impaired/Disabled Communications

### 369.1 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.

### 369.2 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.

#### 369.2.1 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.

### 369.3 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:

##### 369.3.1 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

##### 369.3.2 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.

##### 369.3.3 TELEPHONE INTERPRETER SERVICES

The Shift Supervisor 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).

##### 369.3.4 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.

##### 369.3.5 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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##### **369.3.6 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).

##### **369.4 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.

##### **369.4.1 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.

##### **369.4.2 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.

#### **369.4.3 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.

#### **369.4.4 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.

#### **369.5 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

### 375.1 PURPOSE AND SCOPE

This policy establishes procedures for the investigation and enforcement of stalking complaints (ORS 163.730 et seq.).

### 375.2 POLICY

Stalking behavior frequently results in serious injury and emotional trauma to victims and it is the policy of the West Linn 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.

### 375.3 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)).

### 375.4 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).

#### 375.4.1 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

#### **375.5 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.

##### **375.5.1 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).

#### **375.6 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.

## Child Safety Policy

### 379.1 PURPOSE AND SCOPE

The West Linn Police Department recognizes that children who are subjected to traumatic events, such as the arrest of a parent or guardian, may experience negative emotional effects that can last throughout the lifetime of the individual. After such an event the child may not receive the appropriate care, which can lead to further emotional or physical trauma. This policy is intended to provide guidelines for officers to take reasonable steps to minimize the impact to the child when it becomes necessary to take action involving the child's parent or guardian.

#### 379.1.1 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 West Linn Police Department will endeavor to create a strong cooperative relationship with Department of Human Services Child Protective Services and community-based child social services to ensure an effective, collaborative response that addresses the needs of affected children.

### 379.2 PROCEDURES DURING AN ARREST

When encountering an arrest situation officers should make reasonable attempts to determine if the arrestee is responsible for minor dependent children. In some cases this is obvious, such as when children are present. However, officers should inquire if the person has any other dependent minor children who are without appropriate supervision. The following steps should be taken:

- (a) Inquire about and confirm the location of any dependent minor children.
- (b) Look for evidence of children. Officers should be mindful that some arrestees may conceal the fact that they have dependent children for fear their children may be taken from them.
- (c) Inquire of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a dependent child.

Whenever possible, officers should take reasonable steps to accomplish the arrest of a parent or guardian out of the presence of his/her child. Removing children from the scene in advance of the arrest will generally ensure the best outcome for the child.

Whenever it is safe to do so, officers should allow the parent to assure children that they will be provided care. If this is not safe or if the demeanor of the in-custody parent 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 children that both parent and children will receive appropriate care.

#### 379.2.1 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.



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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.
  - 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 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.

#### **379.2.2 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.

#### **379.3 CHILD WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any dependent minor children, the handling officer should consider taking children into protective custody and contact Child Protective Services for placement.

Only when other reasonable options are exhausted should a child be transported to the police's facility, transported in a marked patrol car or taken into formal protective custody.

Under no circumstances should a child be left unattended or without appropriate care.

## Service Animals

### 381.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The West Linn 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 service animals that are individually trained to assist a person with a disability.

### 381.2 SERVICE ANIMALS

The ADA defines a service animal as any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the owner's disability (28 CFR 35.104).

#### 381.2.1 STATE LAW

Oregon law expands the definition of a service or assistance animal to include a dog or other animal designated by administrative rule that is individually trained to do work or perform tasks for the benefit of an individual (OAR 839-006-0345).

#### 381.2.2 USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, 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 people with disabilities.

The following examples are 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 who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting people 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.
- 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 or follow daily routines.

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#### **381.3 MEMBER RESPONSIBILITIES**

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the West Linn 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 an officer may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person 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. Members of this department are expected to provide all services as are reasonably available to an individual with a disability.

If it is apparent or if an officer is aware the animal is a service animal, the owner 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 questioned about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

Service animals are not pets. Department members 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 allow service animals to accompany their owner into all areas that other customers or members of the public are allowed.

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as the result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice.

## Off-Duty Law Enforcement Actions

### 387.1 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 West Linn Police Department with respect to taking law enforcement action while off-duty.

### 387.2 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 unless in the case of an intoxicated driver the action can be taken prior to the person driving and the person is obviously impaired to an obvious level and intervention is necessary to protect both the subject and public, and only then when it is safe to do so.

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 as a last resort.

### 387.3 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 Policy. When carrying firearms while off-duty officers shall also carry their department-issued badge and identification.

Officers should consider refraining 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.

### 387.4 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.

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#### *Off-Duty Law Enforcement Actions*

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- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, OC or baton.
- (d) The lack of cover.
- (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.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

#### **387.4.1 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 practical, the officer should loudly and repeatedly identify him/herself as an West Linn Police Department officer until acknowledged. Official identification should also be displayed.

#### **387.4.2 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.

#### **387.4.3 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.

#### **387.4.4 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.

#### **387.5 REPORTING**

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify a Sergeant as soon as practical. The 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

### 388.1 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.

#### 388.1.1 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.

### 388.2 POLICY

It is the policy of the West Linn Police Department 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.

### 388.3 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).

### 388.4 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 ten 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*

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##### **388.4.1 SURRENDER OF DEADLY WEAPONS AND HANDGUN LICENSE**

The officer serving an extreme risk protection order shall request that the person immediately surrender all deadly weapons in his/her custody, control, or possession along with any concealed handgun license issued to the person. The officer shall take custody of any weapons or license surrendered. If the person indicates an intention to surrender the weapons to a gun dealer or a third party, the officer shall request that the person identify that gun dealer or third party. Prior to taking any enforcement action, the officer should make a reasonable effort to follow up with the gun dealer or third party to determine if the deadly weapons were surrendered (ORS 166.537).

The officer serving an extreme risk protection order continued after a court hearing held under ORS 166.530, or a renewed extreme risk protection order, shall request that the person surrender all deadly weapons in his/her custody, control, or possession. The officer may conduct any search permitted by law for deadly weapons and shall take possession of all deadly weapons appearing to be in the custody, control, or possession of the person that are surrendered, in plain sight, or discovered pursuant to a lawful search (ORS 166.537).

A receipt identifying all surrendered items shall be prepared by the officer and a copy given to the person. The officer should ensure the original receipt is forwarded to the Property and Evidence Division as soon as practicable (ORS 166.537).

All deadly weapons collected shall be handled and booked in accordance with the Property and Evidence Policy.

##### **388.4.2 SEARCH WARRANTS**

If a person who has been served with an extreme risk protection order refuses to surrender any deadly weapons, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy.

##### **388.5 ASSISTANT TO THE CHIEF OF POLICE/RECORDS SUPERVISOR RESPONSIBILITIES**

The Assistant to the Chief of Police/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).

##### **388.6 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.

##### **388.7 RENEWAL OF EXTREME RISK PROTECTION ORDER**

The Captain 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 the City of West Linn, 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 detection and 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 members 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 West Linn 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 Supervisor in a timely fashion.

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#### *Patrol Function*

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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 West Linn 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**

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 officers within the Department. These will include a printout of daily activity from LOCOM and a Briefing board containing pertinent information concerning officer safety, internal memorandums, and other items of interest to members of the department.

##### **400.2.4 BULLETIN BOARDS**

A bulletin board will be kept in the briefing room and the Detective Unit for display of suspect information, intelligence reports and photographs. New Interim Directive will be made available for patrol supervisors and will be discussed at briefings and shift meetings. A copy of the Interim Directive will be placed on the briefing room clipboard and also placed on the City network "P" Drive in the policy folder.

#### **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.

## Patrol Supervision and Officer In Charge (OIC)

### 401.1 PURPOSE AND SCOPE

To provide guidelines for patrol supervision and the On-Call Sergeant and establish responsibilities for officers who are designated as the shift Officer In Charge (OIC) in the absence of a Sergeant or other supervisor.

### 401.2 POLICY

The West Linn Police Department shall strive to have supervisory coverage 24 hours a day, seven days a week. This agency recognizes there may be times when no Sergeant is scheduled to work. During these times it shall be the policy of this Department to designate a qualified officer as the Officer In Charge (OIC). OIC's will be designated on the schedule and will be assigned by a shift Sergeant in advance. In the event there is no Sergeant available to designate an OIC on short notice, the most senior officer who has been selected as an OIC for that shift shall assume the responsibility as OIC for that shift. If there is not an OIC qualified officer on duty, the most senior officer shall contact the On-Call Sergeant for direction.

### 401.3 DEFINITIONS

**Officer In Charge (OIC)** - Officer selected by department command that will perform in a Lead Officer function in the absence of a shift Sergeant or other supervisor when designated.

**On-Call Sergeant** - Sergeant designated as the first supervisory contact for OIC's in the event of a major incident or as a resource to assist the OIC.

**Supervisor** - Refers to any employee with the rank of Sergeant or above.

### 401.4 PROCEDURES

The West Linn Police Department shall have no period of time greater than two consecutive patrol shifts, not to exceed fourteen hours, without a Sergeant or other supervisor on duty. Overtime will be posted and filled by a Sergeant for any time period in excess of two shifts without a Sergeant or other designated supervisor on duty.

During any time when the Detective Sergeant and/or a Captain is on duty, this will meet the requirements of having a Sergeant or supervisor on duty only if that person is aware and is available to monitor the radio and respond to calls. If these criteria are not met then overtime shall be posted to be filled by a Sergeant or an OIC shall be designated.

If a Captain or Detective Sergeant is acting in the capacity of a patrol supervisor they shall be in uniform and able to respond to calls to be considered as a part of minimum staffing requirements. If minimum staffing is met, they will not be required to be in uniform but will still be required to monitor the radio and respond to calls in a supervisory roll. If they are not able to be in uniform then an officer will be called in to meet minimum staffing in accordance with the current CCPOA Collective Bargaining Agreement.

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#### *Patrol Supervision and Officer In Charge (OIC)*

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- (a) **On-Call Sergeant** - The Department shall designate a Sergeant at all times for On-Call purposes. The On-Call Sergeant will be a rotating position assigned to patrol Sergeants. On-Call Sergeant schedules and rotations will be for a period of time approved by the Patrol Captain and a schedule will be posted in a conspicuous place in the briefing room and will include a contact phone number.
1. On-Call Sergeants shall be available by phone and able to respond to an incident within a reasonable amount of time at all times during their on-call rotation. The On-Call Sergeant is expected to be able to immediately monitor the radio at all times while on call when they have been contacted by the shift OIC in the event of an incident that does not require their response to the scene (i.e. Elude).
  2. In the event the On-Call Sergeant knows they will not be available during their rotation (i.e. Out of town or alcohol consumption) it shall be their responsibility to arrange for a Sergeant to take their place. This information will be posted in a conspicuous place in the briefing room, and LOCOM will be notified.
  3. In the event there is no Sergeant or other supervisor on duty and no qualified OIC on duty, the On-Call Sergeant shall report for duty until relieved by a Sergeant or other supervisor or a qualified OIC. If the On-Call Sergeant is required to respond for duty or to an incident they shall be compensated in accordance with the approved call back policy. The sergeant tasked with patrol scheduling will ensure LOCOM has a current schedule of On-Call Sergeant assignments.
- (b) **Officer In Charge (OIC)** - OIC's are responsible for the safe, effective operation of the Department and carry authority as outlined in this policy during the duration of their assignment. The selection process for OIC's will be determined by the Chief of Police.
1. **Briefing** - The assigned OIC will be responsible for conducting the shift briefing. This will include assignment of districts and vehicles and ensuring personnel are fit for duty in accordance with Department policy 340.3 (Conduct). OIC's will review the logs from LOCOM and LEDS printouts and receive a brief turnover from the off-going supervisor or OIC and pass on any important information to their shift. Patrol: The OIC may be responsible for an assigned district at their discretion. They will handle calls for service in their assigned district as usual.
  2. The OIC will be responsible for monitoring calls assigned to other officers and be available for advice or assistance.
  3. **Major Incident Response** - The OIC will make notification of major incidents to the On-Call Sergeant and up the chain of command if needed. OIC's are responsible for notifying the Chief of Police, via the chain-of-command, whenever one of the following incidents occurs. If specific officers in the chain of command are unavailable, the OIC shall personally contact the Chief of Police.
    - (a) A member of the Department is killed or injured and hospitalized.

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#### *Patrol Supervision and Officer In Charge (OIC)*

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- (b) An immediate family member of a Department member is killed or seriously injured.
  - (c) A City official is killed or seriously injured, either within the City or elsewhere, and when any other public official is killed or seriously injured within the jurisdiction.
  - (d) The filing of a complaint of serious misconduct against a member of the Department.
  - (e) The arrest of a member of the Department.
  - (f) Criminal accusation against a governmental official, or the arrest of a governmental official or a member of his/her immediate family.
  - (g) Serious injury requiring hospital treatment of a person placed under arrest.
  - (h) Homicide or possible fatal injuries to the victim of a crime.
  - (i) Kidnapping
  - (j) Bombing
  - (k) Sniping
  - (l) Barricaded person
  - (m) Hostages being held
  - (n) Shooting in which a member of the Department is involved.
  - (o) Death or serious injury resulting from an accident in which a police vehicle is involved.
  - (p) A major civil or criminal disturbance requiring police response.
4. In addition, the Chief of Police is to be informed of anything which, in the judgment of the OIC, should be brought to his/her attention, including for example, politically sensitive incidents, and unusual or spectacular incidents of high public interest.
5. When the OIC arrives at the scene of a major incident he/she will be responsible for ensuring the following actions take place:
- (a) Containment of the scene including establishing a perimeter if appropriate.
  - (b) Locating and securing suspects and witnesses.
  - (c) Initial officer assignments.
  - (d) Locating evidence.
  - (e) Ensuring the safety of all persons involved.

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#### *Patrol Supervision and Officer In Charge (OIC)*

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6. **Pursuit** - Upon being notified or becoming aware of a pursuit, the OIC shall assert control over the pursuit and has the discretion to order specific units into or out of the pursuit. The OIC may at any time order the termination of a pursuit when believing that immediate apprehension is outweighed by the level of danger created by the pursuit. OIC will notify the on-call sergeant of the pursuit when time permits.
7. **Equipment and Personnel** - The OIC will ensure the shift is staffed with the minimum number of required officers. In the event of an officer calling in sick or going home injured or sick and leaving the shift short staffed, the OIC will fill the vacant spot in accordance with the current CCPOA Collective Bargaining Agreement. The OIC will make arrangements to have damaged or mechanically defective vehicles taken to the city shops for repair and send notice to city shops personnel. The OIC will ensure that all specialty equipment that is normally stored in the supervisor vehicles is made available to officers during the shift, either by operating the supervisor vehicle or placing the equipment temporarily into the OIC's vehicle for that shift.
8. The OIC will notify the On-Call Sergeant in the event of an accident involving a police vehicle. The OIC will notify the On-Call Sergeant in the event of an injury to an officer that requires medical attention or that officer to be relieved of duty.
9. Officers will follow the directions of the OIC in accordance with Department policy 340.3.5 (Compliance with Orders/Insubordination).
10. The OIC will be the point of contact for the West Linn Police Department in the event of an agency assist request or media request. However media requests should be directed to the departments PIO.
11. **Citizen Complaints** - If an OIC receives a complaint from a citizen regarding an officer the OIC shall obtain contact information from the complainant and record in writing any complaint made and forward that information to a Sergeant per Department policy 1020 (Complaints).
12. The OIC will not be responsible for the following:
  - (a) Scheduling Holiday and Vacation time off.
  - (b) Internal Investigations and Citizen Complaint Investigations
  - (c) Imposition of discipline.
  - (d) Press releases

## Bias-Based Policing

### 402.1 PURPOSE AND SCOPE

This policy provides guidance to department members and establishes appropriate controls to ensure that members of the West Linn Police Department do not engage in racial or bias-based profiling or violate any related laws while serving the community (ORS 131.920).

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, and partnerships).

See the Personnel Complaints policy regarding acceptance of complaints alleging profiling and investigations of such complaints.

#### 402.1.1 DEFINITIONS

Definitions related to this policy include:

**Bias-based policing** - An inappropriate reliance on characteristics; such as, race, ethnicity, national origin, language, religion, sex, sexual orientation, gender, gender identity or expression, economic status, homelessness, age, cultural group, disability, political affiliation or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement. This includes profiling as defined by ORS 131.915.

### 402.2 POLICY

The West Linn 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, fairly, objectively and without discrimination toward any individual or group.

### 402.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

The West Linn Police Department will investigate all complaints of alleged bias-based policing complaints against its members.

Complaints that come directly from the LECC will be investigated and reported back to the LECC with the dispositions/results of the investigation. Personal information (including officer and complainant) will be exempt from public records requests (ORS 192.502). All complaints will be investigated within 180 days of the complaint being received.

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#### *Bias-Based Policing*

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#### **402.4 MEMBER RESPONSIBILITY**

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any known instances of racial or bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased based actions by another member.

##### **402.4.1 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.

##### **402.4.2 REPORTING TRAFFIC AND PEDESTRIAN STOPS**

Each time an officer makes an officer-initiated traffic or pedestrian stop, the officer shall record the required stop data for all applicable categories consistent with department protocols and in the method and manner prescribed by the Oregon Criminal Justice Commission (OCJC) (ORS 131.935).

#### **402.5 SUPERVISOR RESPONSIBILITY**

Supervisors shall monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
  1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors should periodically review Mobile Audio/Video (MAV) recordings, portable audio/video recordings, Mobile Digital Computer (MDC) data and any other available resource used to document contact between officers and the public to ensure compliance with this policy.
  1. Supervisors should document these periodic reviews.
  2. Recordings that capture a potential instance of bias-based policing should be appropriately retained for administrative investigative purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this department who discloses information concerning bias-based policing.

#### **402.6 STATE REPORTING**



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##### 402.6.1 STATE REPORTING TO LAW ENFORCEMENT CONTACTS POLICY AND DATA REVIEW COMMITTEE

The Records Division 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.
- (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 Division 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).

##### 402.6.2 STATE REPORTING TO OREGON CRIMINAL JUSTICE COMMISSION

The West Linn Police Department 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 (ORS131.935).

#### **402.7 ADMINISTRATION**

Annually, the Patrol Division Captain shall review the efforts of the Department to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the Chief of Police. The annual report should not contain any identifying information about any specific complainant, citizen, or officers. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.\

Supervisors shall review the annual report and discuss the results with those they are assigned to supervise.

#### **402.8 TRAINING**

Training on fair and objective policing and review of this policy should be conducted annually as directed by the Training Coordinator.

##### 402.8.1 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

The Training Coordinator should ensure that officers receive training implemented by the Department of Public Safety Standards and Training regarding procedures to facilitate the collection of officer-initiated traffic and pedestrian stop data (ORS 131.935).

## Roll Call

### 404.1 PURPOSE AND SCOPE

This policy discusses the activity of roll call and includes the tasks that should be accomplished during this short period.

### 404.2 PREPARATION OF MATERIALS

The supervisor conducting roll call training is responsible for preparation of the materials necessary for a constructive roll call. Supervisors may delegate this responsibility to a subordinate officer in the supervisor's absence or for training purposes.

### 404.3 POLICY

Roll Call is intended to facilitate the accurate flow of information in order to enhance coordination of activities, improve performance and safety, and outline the expected actions of members.

### 404.4 ROLL CALL

All divisions and specialized units will conduct regular roll call to discuss, disseminate, and exchange information among department members, work groups, and other organizations. A supervisor generally will conduct roll call. However, the supervisor may delegate this responsibility to a subordinate member in the supervisor's absence or for training purposes.

Roll Call should include but is not limited to:

- (a) Providing members with information regarding daily activities, with particular attention given to changes in the status of:
  - 1. Wanted persons.
  - 2. Crime patterns.
  - 3. Suspect descriptions.
  - 4. Intelligence reports and photographs.
  - 5. Community issues affecting law enforcement.
  - 6. Major investigations.
- (b) Notifying members of changes in schedules and assignments.
- (c) Reviewing recent incidents for situational awareness and training purposes.
- (d) Providing training on a variety of subjects.
- (e) Conducting periodic personnel inspections.

Supervisors should also ensure that all members are informed about Interim Directives and any recent policy changes.

#### 404.4.1 RETENTION OF ROLL CALL TRAINING RECORDS

Roll Call training materials and a curriculum or summary shall be forwarded to the Training Coordinator for inclusion in training records, as appropriate.

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#### *Roll Call*

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#### **404.5 TRAINING**

Roll Call training should incorporate short segments on a variety of subjects or topics and may include:

- (a) Review and discussion of new or updated policies.
- (b) Presentation and discussion of the proper application of existing policy to routine daily activities.
- (c) Presentation and discussion of the proper application of existing policy to unusual activities.
- (d) Review of recent incidents for training purposes.

## Crime and Disaster Scene Integrity

### 406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

### 406.2 POLICY

It is the policy of the West Linn Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

### 406.3 SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

### 406.4 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) Broadcast emergency information, including requests for additional assistance and resources.
- (b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.
- (c) Locate or identify suspects and determine whether dangerous suspects are still within the area.
- (d) Provide first aid to injured parties if it can be done safely.
- (e) Evacuate the location safely as required or appropriate.
- (f) Secure the inner perimeter.
- (g) Protect items of apparent evidentiary value.
- (h) Secure an outer perimeter.
- (i) Identify potential witnesses.
- (j) Start a chronological log noting critical times and personnel allowed access.

### 406.5 SEARCHES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to 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

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persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

##### **406.5.1 CONSENT**

When possible, officers should seek written consent to search from authorized individuals prior to the search occurring. However, recognizing that the demands of each situation are different, verbal consent is recognized as a valid method of consent. Nothing prohibits obtaining consent as an additional authorization in cases where a search warrant has been granted.

##### **406.6 ADMINISTRATIVE SERVICES/INVESTIGATIONS DIVISION CAPTAIN RESPONSIBILITIES**

The Administrative Services/Investigations Division Captain is responsible for ensuring the equipment, supplies, and procedures are present to ensure the collection of evidence and integrity at crime and disaster scenes.

##### **406.7 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 (ORS 433.156).

## Ride-Alongs

### 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 West Linn 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, with certain exceptions established by the Patrol Division Commander.

### 410.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the Shift Supervisor. The participant will complete a ride-along waiver form. 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.

The Shift Supervisor will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective Shift Supervisor as soon as possible for his/her scheduling considerations.

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: Chaplains, police applicants, and all others with approval of the Patrol Commander.

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An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. No more than one ride-along will be allowed in the officer's vehicle at a given time.

#### **410.2.2 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 express consent of the Shift Supervisor. 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.

#### **410.2.3 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 inquiries to the National Crime Information Center (NCIC), Computerized Criminal History (CCH), and a Department of Motor Vehicles (DMV) records checks via the Law Enforcement Data System (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 West Linn Police Department). The printed inquiry responses will be attached to the request and forwarded to the on-duty Shift Supervisor 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.

#### **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 ride-along 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
- (d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety

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- (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 appropriate Division Commander. 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*

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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.

## Hostage and Barricade Incidents

### 414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

#### 414.1.1 DEFINITIONS

Definitions related to this policy include:

**Barricade situation** - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

**Hostage situation** - An incident where it is reasonable to believe a person is unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

### 414.2 POLICY

It is the policy of the West Linn Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

### 414.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

#### 414.3.1 EMERGENCY COMMUNICATIONS

A supervisor who has probable cause to believe that a hostage is being held may order a telephone company to cut, reroute or divert telephone lines to prevent a suspect from communicating with anyone other than officers or other designated individuals (ORS 165.549).

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#### *Hostage and Barricade Incidents*

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#### **414.4 FIRST RESPONDER CONSIDERATIONS**

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

##### **414.4.1 BARRICADE SITUATION**

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer.

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- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

#### 414.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- (e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (f) Provide responding emergency personnel with a safe arrival route to the location.
- (g) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.
- (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
- (i) Attempt or obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer.
- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

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##### **414.5 SUPERVISOR RESPONSIBILITIES**

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a Special Weapons and Tactics (SWAT) response if appropriate and apprising the SWAT Commander of the circumstances. In addition, the following options, listed here in no particular order, should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with intelligence information and documentation of the incident.
- (f) If it is practicable to do so, arrange for video documentation of the operation.
- (g) Consider contacting utility and communication providers when restricting such services (e.g., restricting electric power, gas, telephone service).
- (h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or LOCOM.
- (i) Identify a media staging area outside the outer perimeter and have the department Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.
- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.

##### **414.6 SPECIAL WEAPONS AND TACTICS RESPONSIBILITIES**

It will be the Incident Commander's decision, with input from the SWAT Commander, whether to deploy SWAT during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the SWAT Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for SWAT. The Incident Commander and the SWAT Commander or the authorized designee shall maintain communications at all times.

##### **414.7 REPORTING**

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

## 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 Shift Supervisor 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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#### *Response to Bomb Calls*

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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 practical if their assistance is needed:

- (a) Tualatin Valley Fire and Rescue
- (b) EMS
- (c) Metro Explosive Disposal Unit
- (d) Command
- (e) Additional field officers
- (f) Supervisor
- (g) Detectives
- (h) Major Crimes Team

##### **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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#### **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 Supervisor 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.

# BEHAVIORAL HEALTH SPECIALIST

## 417.1 PURPOSE AND SCOPE

As part of the West Linn Police Department, the Behavioral Health Specialist (BHS) is assigned to a broad range of caseloads and duties involving sophisticated assessment and treatment procedures for persons with acute or severe mental/emotional/behavioral/addiction disorders which require a high level of proficiency for effective treatment.

The purpose of the BHS is to give police access to a mental health professional who can intervene and/or assist in connecting individuals experiencing mental, emotional, or behavioral issues and/or who are suffering from addiction disorders to the appropriate resources thereby reducing the need for police and other emergency services in applicable circumstances.

BHS interventions also have the stated goal of developing de-escalation strategies for individuals who have or are currently demonstrating violent behavior in efforts to divert individuals from jail, when possible and appropriate, and to provide effective Trauma Informed Care (TIC) that is delivered in a safe, nonjudgmental manner.

## 417.2 DEFINITIONS

Definitions related to this policy include:

**Behavioral Health Specialist (BHS)** – A licensed mental health professional employed full-time or part-time by and embedded with the police department. The BHS is assigned a radio number by 911 dispatch (LOCOM) and provides field-based risk assessments, crisis intervention, case management, consultation, and referral for a variety of individual needs through proactive and reactive public contact in partnership with local police and emergency services.

**Behavioral Health Unit (BHU)** – An agency specific mental health clinician group, multiple agency mental health clinician partnerships, or singular mental health clinician whose services provide proactive and reactive outreach to individuals in immediate crisis and/or need mental health services.

**Crisis Intervention Team (CIT)** – Community based programs designed to create connections between law enforcement, mental health providers, hospital emergency services, and individuals with mental health illness and their families to improve communication, identify mental health resources for those in crisis, and ensure community and officer safety.

**Qualified Mental Health Professional (QMHP)** – A Licensed Medical Provider or any other person meeting one or more of the following minimum qualifications as authorized by the Local Mental Health Authority or designee:

- (a) 1. (a) Master's Degree in social work, psychology, counseling or related field;
- (b) Five years' experience in treatment of persons with mental health issues, substance abuse issues, or houseless problems

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**Behavioral Health Crisis** – Any situation in which a person's behavior puts them at risk of hurting themselves or others and/or prevents them from being able to care for themselves or function.

**Trauma Informed Care (TIC)** – An approach based on knowledge of the impact of trauma and is aimed at ensuring environments and services are welcoming and engaging for service recipients and staff.

**After Hours Response** – Any response or request for response that occurs outside of the BHS's regular working hours.

**Director's Designee** – An individual designated by the County Director of Mental Health to initiate involuntary custody under Oregon Revised Statute (ORS) 426.233 for the purpose to have an individual assessed to be transported to a Hospital when there is probable cause of dangerousness to self or others due to mental illness.

**Continuing Education Unit (CEU) or Continuing Education Credit (CEC)** – A measure used in continuing education programs to assist the professional maintain their license in their profession.

**Administrative Safeguards** – Administrative actions, policies, and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic protected health information and to manage the conduct of the covered entity's or business associate's workforce in relation to the protection of that information.

**Physical Safeguards** – Physical measures, policies, and procedures to protect a covered entity's or business associate's electronic information systems and related to buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

**Technical Safeguards** – The Technology and the policy and procedures for its use that protect electronic protected health information and control access to it.

**Facility** – The physical premises and the interior and exterior of building(s).

#### **417.3 POSITION REQUIREMENTS**

As a QMHP, the BHS must demonstrate the ability to conduct an assessment, including identifying precipitating events, gathering histories or mental and physical health, alcohol and other drug use, past mental health services and criminal justice contacts, assessing family, cultural, social and work relationships, and conducting a mental status examination, complete a five axis DSM diagnosis, write, and supervise the implementation of an ISSP and provide individual, family, or group therapy within the scope of their training.

Certifications, CEU's, and CEC's are essential components of the position and must be maintained through employment in the position.

The BHS is required to work both independently or directly with law enforcement personnel to bridge the gap between law enforcement and the social and medical service needs of the community. The BHS works to provide field-based risk assessments, crisis intervention, case management, consultation, and referral for a variety of individual needs.

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#### ***BEHAVIORAL HEALTH SPECIALIST***

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The BHS will, at times, accompany law enforcement officers to and from service calls related to assisting community members with actual or reported mental health, substance abuse, houseless, and/or other related quality of life issues.

The BHS will utilize their experience in working with persons in a variety of situations to evaluate, develop, coordinate, and provide assessment and intervention activities to people in crisis; incorporating a person-centered, strengths-based recovery approach that include peers and natural systems of support; a positive and collaborative attitude and approach in working with partners, including but not limited to other law enforcement agencies.

The BHS will review any police reports or follow up requests that have been forwarded to them and will complete follow ups as needed. The BHS will work with the appropriate resources to develop, recommend, provide, and effectively coordinate social and emergency medical plans and services to community members suffering from mental health, substance abuse, housing and/or other quality of life issues.

The BHS will provide ongoing training and support to law enforcement and staff in the aforementioned public safety and community support areas. They will provide oversight for this program to include but not be limited to its operations, budgeting, and funding/grant administration. The BHS will continually monitor and evaluate the performance of the program to ensure compliance with local ordinances, codes, regulations, and laws.

#### **417.4 AUTHORITY**

The BHS is designated by the County Director of Mental Health as having the authority to initiate involuntary protective custody for an individual when probable cause exists to believe the person is imminently dangerous to him/herself or to another person; ORS 426.233.

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)). The BHS, when feasible and permitted, is expected to assist department law enforcement personnel during these civil commitment processes. For additional information, see CIVIL COMMITMENTS policy.

The BHS is a non-sworn position and is not granted law enforcement authority under ORS 161.015. The BHS may only exercise the authority granted to them by law. While the BHS works directly with law enforcement in a collaborative manner and often respond to cases as a part of the team, they should not be counted as a second officer.

All services provided by the BHS are on a voluntary basis only. Individuals cannot be required to engage in any of the services that are offered to them.

#### **417.5 CONSIDERATION AND RESPONSIBILITIES**

The BHS is expected to demonstrate patience, compassion, and crisis management skills in working with and in support of internally and externally diverse community members reported to be or suffering from mental health, substance abuse, houseless, or other quality of life related

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issues. They are expected to have a working knowledge of applicable social, community, criminal justice, protective services, physical and mental health services, and local and state resources.

The BHS is expected to work individually or as part of a team to prepare research, statistical, and analytical reports for stakeholders, community groups, news organizations, and businesses where appropriate. The BHS should be able to also create and/or give presentations of mentioned research, statistical, and analytical reports.

The BHS is responsible for analyzing programs, policies, procedures, and operational needs as it relates to their assignment and can recommend, develop, and implement strategies to better support those areas.

While this is a non-uniformed position, appropriate protective equipment, e.g. ballistic vest, will be made available by the agency for the BHS's safety and clothing will be provided that clearly identify them as the BHS when necessary. The BHS will be given limited access to department resources such as computer reporting equipment and unmarked staff vehicles, where appropriate, so they may perform their duties.

Travel to and from BHS service calls may occur within a marked patrol vehicle driven by a uniformed police officer, or an unmarked vehicle driven by the BHS. The BHS themselves may not operate their vehicle in an emergency response manner, i.e. lights and sirens.

If Mental Health services are needed outside the BHS's regular schedule, officers will have the opportunity to contact the BHS by phone to request a consultation and determine if an on-scene response is required. If the BHS is not available to respond, officers are encouraged to contact the after-hours Clackamas County crisis response team via Clackamas County Crisis line at (503) 655-8585.

#### **417.6 SECURITY**

Pursuant to HIPAA administrative safeguards noted in 45 CFR §164.308 and any other applicable HIPAA rules, the West Linn Police Department and the BHS will implement the requisite policies and procedures to prevent, detect, contain, and correct HIPAA security violations.

These policies and procedures should address the administrative, physical, and technical safeguards required at the facility for the protection of protected information created and/or reviewed by the BHS.

The policies, procedures, and safeguards in place should be evaluated regularly for the effectiveness in keeping protected information secure.

#### **417.7 DOCUMENTATION / RECORDS**

To comply with Oregon Administrative Rules (OAR) the BHS will document contact with Individuals by recording the events, the assessment, any safety plans, and the disposition on the applicable forms and/or in the appropriate report system(s). Those items should be securely stored, either physical in the facility under double lock and key or securely saved electronically.

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Due to the short-term interventions provided by the BHS, no formal diagnosis will be included in the documentations. The BHS will document clinical observations, display of symptoms and self-report diagnosis. Safety concerns and recommendations will also be documented.

Should the BHS exercise their ability to place an individual on a Director's Designee, the BHS will utilize the form provided by Clackamas County Behavioral Health and a copy of the form shall be given to CMHC, along with the custodial officer for inclusion in the applicable case file..

#### **417.8 CONFIDENTIALITY AND RECORDS DISCLOSURE**

The BHS and the BHU are not exempt from the rules and requirements set by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Behavioral Health Information cannot be disclosed without the individual's consent, except when the disclosure of Personal Health Information (PHI) to Law Enforcement Officials is believed to prevent or lessen a serious and imminent threat to the health of an individual or the public.

Both the BHS and the West Linn Police Department agree to follow rules and limitations set forth in OAR 407-014-000 to 407-014-0070 as well as Oregon law.

Public records requests for West Linn Police BHS information shall be directed to the Records Department. Written request and authorization will be needed prior to the release of any Protected Health Information. All requests should be accompanied by a signed release of information.

#### **417.9 CONFLICT OF INTEREST**

Should the BHS know the individual experiencing a mental health crisis either personally or professionally, the BHS, if feasible, should refer the individual to appropriate services and remove themselves from the incident. If circumstances require immediate assistance, the BHS should initiate efforts to ensure that the crisis has been addressed and the individual no longer presents a threat to themselves or others. The BHS will then inform the working supervisor of the conflict of interest and remove themselves from the incident.

While employed by the West Linn Police Department the BHS will not provide any personal clinical/therapeutic services to individuals met during their official duties at the West Linn Police Department. The BHS will not provide any personal clinical/therapeutic services to individuals employed by the department and their immediate family members. The BHS, however, may facilitate connections with services between employers, their family and other practitioners in the community.

## 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 POLICY

It is the policy of the West Linn Police Department to protect the public and individuals through legal and appropriate use of the civil commitment process.

### 418.3 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.

#### 418.3.1 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.

#### 418.3.2 RESTRAINTS

If the patient is violent or potentially violent, the officer will notify the responding medical staff of this concern. The medical staff member in charge will have discretion as to whether soft-restraints

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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.

#### 418.3.3 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 vehicle.

#### 418.3.4 EXTREMELY DANGEROUS PERSONS

An officer may take into custody an individual on conditional release from a state hospital pursuant to an order of revocation. The written order does not have to be in the possession of the officer, and may be confirmed through the Law Enforcement Data System (LEDS) (OAR 859-200-0310).

A person may be taken into custody if all of the following conditions apply (OAR 859-200-0305):

- (a) An officer has reasonable cause to believe the individual is an extremely dangerous person with a mental illness (as defined by OAR 859-200-0020)
- (b) The person presents a serious danger to others because of a mental disorder
- (c) The person is in need of immediate care, custody or treatment
- (d) The person has been civilly committed to the jurisdiction of the Psychiatric Security Review Board by a court

The officer shall transport the individual to a state hospital operated by the Oregon Health Authority (OAR 859-200-0310).

#### **418.4 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.



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##### 418.4.1 FOREIGN NATIONALS

If an officer takes a person into custody for a civil commitment and reasonably suspects that the person is a foreign national, the officer shall inform the person of his/her right to communicate with an official from the consulate of the person's country (ORS 426.228(9)).

##### **418.5 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, Shift Supervisor approval is required before transport commences.

##### 418.5.1 CLEARANCE REQUIRED

If transportation to an appropriate facility will require more than one hour to accomplish, the transporting officer must obtain, if possible, medical clearance from a licensed independent practitioner who has examined the person within the last 24 hours who certifies that the person is in need of immediate care or treatment for mental illness and that travel will not be detrimental to the person's physical health (ORS 426.228(3)).

##### **418.6 DOCUMENTATION**

The officer should complete an application for emergency admission, provide it to the facility staff member assigned to the individual and retain a copy of the application for emergency admission for inclusion in the case report.

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

##### 418.6.1 REQUIREMENTS

Officers shall use OHA form MHD 426.228 or otherwise ensure that the report states (ORS 426.228):

- (a) The reason for custody.
- (b) The date, time and place the person was taken into custody.
- (c) The name and telephone number of the community mental health director.

##### **418.7 CRIMINAL OFFENSES**

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken for a civil commitment should resolve the criminal matter by issuing a citation, as appropriate.

When an individual who may qualify for a civil commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

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- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the civil commitment.
- (c) Facilitate the individual's transfer to the jail facility.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a civil commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

#### **418.8 FIREARMS AND OTHER WEAPONS**

Whenever an individual is taken into custody for a civil commitment, the handling officers should seek to determine if the individual owns or has access to any firearm or other deadly weapon. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g. safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A warrant may also be needed before searching for or seizing weapons.

The handling officers should further advise the individual of the procedure for the return of any firearm or other weapon that has been taken into custody.

#### **418.9 TRAINING**

This department will endeavor to provide department-approved training on interaction with mentally disabled persons, civil commitments and crisis intervention.

## Citation Releases

### 420.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of the West Linn Police Department with guidance on when to release adults who are suspected offenders on a citation for a criminal offense, rather than having the person held in custody for a court appearance or released on bail.

### 420.2 RELEASE

A suspected offender may be released on issuance of a criminal citation if the officer has probable cause to believe that the person has committed a misdemeanor or has committed any felony that is subject to misdemeanor treatment under ORS 161.705 (reduction of certain felonies to misdemeanors) (ORS 133.055).

#### 420.2.1 CITATION RELEASES ON WARRANTS

If the offense is not excluded under ORS 133.055, the court may authorize an officer to issue and serve a criminal citation in lieu of arrest (ORS 133.110).

### 420.3 PROHIBITIONS

The release of a suspected offender on a citation is not permitted when:

- (a) The officer has probable cause to believe that the person has been served a valid restraining order as described in ORS 133.310 (orders relating to stalking, elder and disability abuse, sexual abuse) and the person has violated the terms of the order (ORS 133.310).
- (b) The officer has probable cause to believe that the person has been charged with an offense under ORS 135.230 through ORS 135.290 (sexual offenses, domestic violence, methamphetamine crimes), and is presently released and has failed to comply with a no contact condition to the release agreement (ORS 133.310).
- (c) 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).
  1. Any officer encountering a person who is intoxicated or under the influence of controlled substances in a public place and who is incapacitated, whose health appears to be in immediate danger, or there is reasonable cause to believe the person is dangerous to him/herself or to any other person, shall transport the individual to the nearest appropriate treatment facility or sobering facility (ORS 430.399).

See the Domestic Violence Policy for release restrictions related to those investigations.

### 420.4 CONSIDERATIONS

In determining whether to cite and release a person when discretion is permitted, officers should consider:

- (a) The type of offense committed.
- (b) The known criminal history of the suspected offender.

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- (c) The ability to identify the suspected offender with reasonable certainty.
- (d) Whether there is any record of the individual failing to appear in previous cases or other articulable indications that the individual may not appear in court for this offense.
- (e) The individual's ties to the area, such as residence, employment or family.
- (f) Whether there is reasonable likelihood that criminal conduct by the individual will continue.

#### **420.5 POLICY**

The West Linn Police Department will consider its resources and its mission of protecting the community when exercising any discretion to release suspected offenders on a citation, when authorized to do so.

## 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 Shift Supervisor/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 (Vienna Convention on Consular Relations, Art. 36, (1969)).

If the individual requests such notification, the officer shall contact LOCOM as soon as practical and request the appropriate embassy/consulate be notified. Officers shall provide LOCOM 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 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.

#### 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.

## Rapid Response and Deployment

### 424.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers in situations that call for rapid response and deployment.

### 424.2 POLICY

The West Linn Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

### 424.3 CONSIDERATIONS

When dealing with a crisis situation members should:

- (a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.
- (b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.
- (c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.
- (d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

### 424.4 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to reduce, prevent or eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers should take immediate action, if reasonably practicable, while requesting additional assistance.

Officers should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action officers should consider:

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- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual officer from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.
- (e) Whether the officers have the ability to effectively communicate.
- (f) Whether planned tactics can be effectively deployed.
- (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, officers should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

#### **424.5 PLANNING**

The Patrol Division Captain should coordinate critical incident planning. Planning efforts should consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.
- (c) Communications interoperability with other law enforcement and emergency service agencies.
- (d) Training opportunities in critical incident target sites, including joint training with site occupants.
- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) Response coordination and resources of emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.

#### **424.6 TRAINING**

The Training Coordinator should include rapid response to critical incidents in the training plan. This training should address:

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- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

# Immigration Violations

## **428.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines to members of the West Linn Police Department relating to immigration and interacting with federal immigration officials.

## **428.2 POLICY**

It is the policy of the West Linn 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.

## **428.4 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.

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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.

#### 428.4.1 IMMIGRATION INQUIRIES PROHIBITED

An officer shall not inquire into an individual's immigration status, citizenship status, or country of birth except where allowed by law (ORS 181A.823).

#### 428.4.2 INDIVIDUAL RIGHT NOTIFICATION

To ensure compliance with all treaty obligations, including consular notification and state and federal laws, an officer should ensure individuals who are detained receive an explanation in writing, with interpretation into another language if requested, of the following (ORS 181A.823):

- (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.

#### 428.4.3 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 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT**

Generally, an officer should not notify federal immigration officials when booking arrestees at a jail facility. Any required notification will be handled according to jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

#### **428.6 FEDERAL REQUESTS FOR ASSISTANCE**

Requests by federal immigration officials for assistance from this department should be directed to a supervisor. The Department may provide available support services (unrelated to immigration enforcement), such as peacekeeping efforts (ORS 181A.826).

#### 428.6.1 FEDERAL IMMIGRATION ENFORCEMENT REQUESTS AND DOCUMENTATION

Any requests from federal immigration officials for assistance relating to immigration enforcement (other than a judicial subpoena) shall be declined and the communication or request shall be documented. The documentation shall be forwarded to the Chief of Police or the authorized

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designee. The Chief of Police or the authorized designee should ensure the documentation is forwarded to the Oregon Criminal Justice Commission (OCJC) as prescribed by the OCJC (ORS 181A.826).

#### **428.7 INFORMATION SHARING**

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; ORS 181A.823):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under Oregon State Law.

##### **428.7.1 IMMIGRATION DETAINERS**

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

##### **428.7.2 NON-DISCLOSURE OF CERTAIN INFORMATION**

Except as required by state or federal law, members should not disclose for the purpose of enforcement of federal immigration laws the following information about a person or his/her known relatives or associates, whether current or otherwise (ORS 180.805):

- (a) The person's address
- (b) The person's workplace or hours of work
- (c) The person's school or school hours
- (d) The person's contact information, including telephone number, email address, or social media account information
- (e) The identity of known associates or relatives of the person
- (f) The date, time, or location of a person's hearings, proceedings, or appointments with the Department that are not matters of public record

#### **428.8 U VISA AND T VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).



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Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Detective Unit supervisor assigned to oversee the handling of any related case. The Detective Unit supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner (ORS 147.620).
  1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

#### 428.8.1 DENIAL OF CERTIFICATION

If certification is denied, the Detective Unit supervisor shall inform the petitioner in writing regarding the reason for the denial as provided in ORS 147.620. A copy of the notice shall be kept for a minimum of three years and in accordance with the established records retention schedule (ORS 147.620).

#### 428.8.2 TIME FRAME FOR COMPLETION

Except under circumstances where there is good cause for delay, the Detective Unit supervisor shall process the certification for the U visa or T visa within 90 days of the request, unless the victim is in federal immigration removal proceedings, in which case the certification shall be executed within 14 days after the request is received (ORS 147.620).

#### 428.8.3 U VISA AND T VISA DOCUMENTATION

The Detective Unit supervisor shall collect written documentation regarding the number of certification forms that are (2019 Oregon Laws, c. 472, § 2):

- (a) Requested by a victim.
- (b) Granted.
- (c) Denied, with the reason for denial.

The Detective Unit supervisor or the authorized designee should ensure that the information collected regarding certification forms is transmitted in a timely manner to the Records Division for annual reporting to the OCJC.

#### **428.9 TRAINING**

The Training Coordinator should ensure officers receive training on this policy.

Training should include:

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- (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 routed through LOCOM. 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.

#### 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.

### 430.2 TRAFFIC SIGNAL MAINTENANCE

Upon observing a damaged or malfunctioning signal, the officer will advise LOCOM of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency. Officers have the responsibility address any hazard caused by malfunction of any inoperative or malfunctioning signal.

## 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 West Linn Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training and Evaluation Program that 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

FTOs will be selected based on the following requirements:

- (a) Desire to be an FTO
- (b) Minimum of three years of patrol experience and must be off probation with this department
- (c) Demonstrated ability as a positive role model.
- (d) Demonstrated proficiency as a well-rounded officer who consistently makes good decisions and exercises sound judgment
- (e) Recommendation by at least one supervisor and agreement by FTEP Coordinator, Captain and Chief of Police.

#### 436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete an approved Field Training Officer Course prior to being assigned as an FTO. Officers who meet the minimum patrol experience requirement but have not been approved by the FTEP Coordinator, Captain, or Chief of Police to become official FTOs, may be selected and approved to attend a certified Field Training Officer course solely for training purposes. Those officers may petition to become approved FTOs at a later date.

### 436.3 FIELD TRAINING AND EVALUATION PROGRAM SUPERVISOR

The FTEP coordinator will be appointed by the Chief of Police and report to the Patrol Division Commander or his/her designee.

The responsibilities of the FTEP coordinator include the following:

- (a) Assignment of trainees to FTOs.

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- (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.
- (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 West Linn Police Department who has not yet successfully completed the Field Training Program requirements..

#### **436.5 REQUIRED TRAINING**

Entry level officers shall be required to successfully complete the Field Training Program, lasting approximately 19 weeks and/or consisting of approximately 68 Daily Observation Reports (DORs).

Phase one (Orientation) should last approximately 2-3 weeks. Phase one covers the on-boarding of the new officer, including all Human Resources paperwork and CJIS/LEDS certifications.

Phases two through four should each last approximately 5 weeks long and/or consist of approximately 20 DORs.

Phase five should last approximately two weeks and/or consist of approximately 8 DORs.

The training period for lateral officers may be modified depending on the trainee's demonstrated performance and level of experience.

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 West Linn 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 those policies, procedures, rules and regulations enacted by the West Linn Police Department.

#### **436.6 EVALUATIONS**

The West Linn Police Department utilizes the Agency 360 Field Training Officer (FTO) software platform to document and track trainee performance. All trainee evaluations are completed using

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Agency 360. Agency 360 is also capable of administering trainee knowledge tests and quizzes, tracking trainee performance categories and trends, as well as producing reports detailing overall trainee success. 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 detailed Daily Observation Report (DOR) on the performance of his/her assigned trainee to the FTO program coordinator on a daily basis.
- (b) Review the Daily Observation Report (DOR) with the trainee each day.
- (c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.
- (d) 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.

During times when no FTO is available, a trainee may be temporarily assigned to ride with another officer for patrol duties. If the temporary assignment lasts for more than 2 consecutive work days, the assigned officer will be eligible to be compensated at the same rate as an approved FTO. The compensation would be retroactive to the first day the trainee was temporarily assigned to the officer and continue until the end of the temporary assignment. At the completion of the temporary assignment, the assigned officer shall write a memo that summarizes the performance of the trainee. The memo will be submitted to the FTEP Coordinator.

##### 436.6.2 NON-SWORN FIELD TRAINING OFFICER

Experienced non-sworn employees may have new non-sworn employees temporarily assigned to them for on-boarding and field training purposes. In such times when a non-sworn employee is assigned to instruct a new employee, and that instruction or field training will last more than 2 consecutive work days, the non-sworn employee will be eligible for the same incentive pay rate as a sworn employee FTO. The non-sworn employee who is in this temporary FTO capacity will have the same responsibilities as a sworn officer FTO:

- (a) Complete and submit a detailed a Daily Observation Report (DOR) written evaluation on the performance of his/her assigned trainee to the FTO program coordinator on a daily basis. The non-sworn employee will receive training in the use and function of the Agency 360 program, by the FTO program Coordinator, prior to being required to complete DORs.
- (b) Review the Daily Observation Report (DORs) with the trainee each day.
- (c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of their phase of training.

##### 436.6.3 IMMEDIATE SUPERVISOR

The immediate supervisor should review the Daily Observation Reports so they are familiar with the progress of the trainee.

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##### **436.6.4 FIELD TRAINING COORDINATOR**

The Field Training Coordinator will review and approve the Daily Observation Reports submitted by the FTO through the Agency 360 Field Training software..

##### **436.6.5 TRAINEE**

At the completion of the Field Training Program, the trainee shall submit a confidential performance evaluation on each of their FTOs and on the Field Training and Evaluation Program to the FTEP Coordinator, Captain and Chief of Police for review.

#### **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) The completed Field Training Manual

## Inventory of Persons in Custody

### 439.1 PURPOSE AND SCOPE

This policy is intended to govern the process for conducting an inventory of the personal possessions of a person in police custody and shall not be interpreted to affect any other statutory or constitutional right(s) that police officers may employ to search persons or search and seize possessions for other purposes.

### 439.2 DEFINITIONS

For the purposes of this policy, the following definitions shall apply:

**Valuables** - Cash money of an aggregate amount of \$50 or more; or individual items of personal property with a value of over \$500.

**Open container** - A container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.

**Closed Container** - Means a container whose contents are not exposed to view.

#### **Police Custody** -

- (a) The imposition of restraint as a result of an 'arrest' as that term is defined at ORS 133.005(1);
- (b) The imposition of actual or constructive restraint by a police officer pursuant to a court order;
- (c) The imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 426; or
- (d) The imposition of actual or constructive restraint by a police officer for the actual purpose of taking the restrained person to an approved facility for the involuntary confinement of person pursuant to Oregon Law.

**Police Officer** - Any officer of the West Linn Police Department

### 439.3 PROCEDURE

- (a) An officer will inventory the personal property in the possession of a person taken into custody and such inventory will be conducted whenever:
  - 1. Such person will be either placed in a secure police holding room or transported in the secure portion of a police department vehicle; or
  - 2. Custody of the person will be transferred to another law enforcement agency, correctional facility, or 'treatment facility' as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon Revised Statute.
- (b) The purpose of the inventory of a person will be to:



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1. Promptly identify property to establish accountability and avoid spurious claims to property.
  2. Fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the officer for safekeeping;
  3. Assist in the prevention of theft of property.
  4. Locate toxic, flammable or explosive substances;
  5. Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or
  6. Reduce the danger to persons and property.
- (c) Inventories of the personal property in the possession of such persons will be conducted according to the following procedures:
1. An inventory will occur prior to placing such person into a holding room or a police vehicle, whichever occurs first. However, if there is a reasonable suspicion to believe that the safety of the officers or persons in custody is at risk, an inventory will be done as soon as is safely practical prior to the transfer of custody to another law enforcement agency or facility.
  2. To complete the inventory of the personal property in the possession of such person, the officer will remove all items of personal property from clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.
  3. Inventories of the contents of a closed container in the possession of such person should only be conducted when:
    - (a) The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room; or
    - (b) Such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or
    - (c) 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 wallets, closed backpacks, closed briefcases and closed fanny packs.
    - (d) Valuables found during the inventory process will be noted by the officer in a report as directed by the Police Department.
- (d) All items of personal property not left in the immediate possession of the person in custody and not left with the facility or agency accepting custody of the person will be handled in the following manner:

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- (a) A property receipt will be prepared listing the property to be retained in the possession of the City and a copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person; and
- (b) The property shall be logged in as safekeeping, placed into a property locker and left for the evidence custodian for future release to the owner.
- (e) All items of personal property not left in the immediate possession of the person in custody and not dealt with as provided in subsection d above, will be released to the facility or agency accepting custody of the person so that they may hold the property for safekeeping on behalf of the person in custody.
- (f) Reporting Officers shall document all inventories of a person in the appropriate written report.

## 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 POLICY

The West Linn 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.

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#### **440.3 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.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the West Linn Police Department to strengthen community involvement, community awareness, and problem identification.

##### **440.3.1 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.

#### **440.4 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.

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- (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.

#### **440.5 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.

##### **440.5.1 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.

##### **440.5.2 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.

##### **440.5.3 DISPOSITION OF PHOTOGRAPHS**

All detainee photographs must be adequately labeled and submitted to the Shift Supervisor 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 Shift Supervisor 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 Shift Supervisor 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 Division.

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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.

#### **440.5.4 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.

#### **440.6 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.

#### **440.6.1 CHILD WITNESS INTERVIEWS**

A. Parental notification should be made as soon as practicable after interviewing a "child witness". "Child Witness" is defined in OR SB 386 as an unmarried person who is under 18 years of age and who is not the victim of, suspect in or related to the suspect in a child welfare, criminal or delinquency investigation. The notification should be made verbally and shall be documented in the appropriate related report.

B. If transporting a "child witness" to a suitable location for a formal interview, consent *TO TRANSPORT* should be obtained from the parent or guardian, if available, prior to transportation.

## Body Worn Cameras

### 447.1 PURPOSE AND SCOPE

The West Linn Police Department recognizes body-worn cameras provide additional documentation of police-public encounters and can be an important tool for collecting evidence and maintaining public trust.

The West Linn Police Department understands video images from a body-worn camera or other video recording system cannot provide a complete account of an event and capture an entire scene, environmental conditions, surrounding circumstances, or all safety concerns that members must constantly assess and consider when deciding upon a given course of action. The use of body-worn cameras does not reduce the requirement to provide thorough written documentation of an incident, and that viewing footage by various persons may be restricted as provided below.

### 447.2 POLICY

The West Linn Police Department may provide members with access to body-worn cameras 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 at any West Linn Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

This policy is intended to provide West Linn 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 their authorized designee.

### 447.3 DEFINITIONS

Body-worn cameras (BWC) – Camera system designed to be worn by police members to capture Digital Multimedia Evidence (DME). The camera can be a stand-alone device or part of an in-car camera system. Only body-worn cameras authorized and maintained by the West Linn Police Department may be utilized.

Digital Multimedia Evidence (DME) – DME consists of all digital recordings, to include but not limited to audio, video, photographs, and their associated metadata. For the purpose of this policy, DME only references evidence obtained directly from and by the use of BWC systems.

Metadata – Includes any digital identifiers that are captured as part of the actual recording (e.g. date/time, GPS coordinates, labeling, etc.), plus data entered by the member.

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Activate – To cause a video or audio recording to be created through a BWC system.

Deactivate – To cause a video or audio recording being captured through a BWC system to cease.

Supervisor - For the purposes of this policy, a supervisor is an Officer of the Rank of Sergeant or higher rank.

Management Staff - For the purposes of this policy, a command staff person is an Officer of the Rank of Lieutenant or higher rank, City Manager, Human Resources Director, or designee.

#### **447.4 COORDINATOR**

The Chief of Police or the authorized designee should designate a coordinator responsible for:

- (a) Establishing procedures for the security, storage, and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.
- (e) Establishing and facilitating Department-approved training for members on the proper operation and care of the device in accordance with Department policy and law. Members shall receive training prior to their use of a BWC system and be provided periodic training updates to ensure the continued effective and appropriate use of the device.

#### **447.5 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.

#### **447.6 MEMBER RESPONSIBILITIES**

Prior to going into service, each uniformed member, as assigned, 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 shall be used with reasonable care to ensure proper functioning and be tested by the member prior to use. The BWC selected will be registered to that member for that shift. This procedure is not required when the BWC works in conjunction with an in-car camera system. 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



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persons that they are being recorded whenever reasonably practicable. BWC's will be assigned as directed by management staff. Generally, if due to a limited number of cameras available for any reason, the priority for body-worn cameras is as follows: Uniformed Officers, Uniformed Sergeants, Community Service Officers, and Uniformed Lieutenants, or to other members as directed by management staff based on operational need and discretion.

Subject to supervisory approval, a member assigned to a non-uniformed position may utilize a BWC at any time the member is determined useful for a particular matter. The member must have received appropriate training to use a BWC. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members will notify persons that they are being recorded, whenever reasonably practicable.

Members utilizing a BWC not part of an in-car camera system will 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.

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.

#### **447.7 SUPERVISOR RESPONSIBILITIES**

Supervisors shall ensure members assigned a BWC are provided with a BWC device while on-duty. Supervisors should conduct monthly periodic reviews and may review a sampling of a member's BWC recordings to ensure the equipment is functioning properly and members are using devices in accordance with policy. Monthly periodic review will be limited to two (2) non-supervisory officers including the classification of CSO a month and one Sergeant a month, chosen by random sampling. The review will be limited to two (2) BWC events per sworn officer chosen by random sampling. The review may also help to identify any areas which require additional training or guidance.

If during a BWC review a supervisor discovers a policy violation, and depending on the type of policy violation, the supervisor will either initiate a performance discussion with the involved member or contact a management staff member for additional review and possible continued investigation.

#### **447.8 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 may activate the system any time he/she believes its use would be appropriate and/or valuable to document an incident.

(a) The BWC system shall be activated as close as practical to the beginning of an encounter in any of the following situations:

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- All enforcement and investigative contacts including stops and field interview (FI) situations.
- Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- When dispatched or "self-dispatching" to a call for service.
- Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
- Custodial interviews as referenced by Investigation and Prosecution policy..
- Transports.
- 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 will be activated whenever the Department member is engaged in a law enforcement action because the officer 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). Operation of the BWC system and activation of recording is subject to applicable law.

Members shall notify all parties to the conversation that a recording is being made unless pursuant to a court order or the limited exceptions in ORS 165.540 subsections (2) through (7) and ORS133.726 (prostitution offenses, felonies when exigency makes obtaining a warrant unreasonable, certain felony drug offenses, felonies that endanger human life; ORS 165.540).

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.

Based on the BWC device used, the Department is not precluded from using GPS features. The Department is not precluded from using video buffering features for review of critical incidents or for review in an internal investigation that may lead to formal discipline. The buffering feature will be limited to a 60 second look back. Usage of video buffering is subject to applicable law.

#### 447.8.1 DEACTIVATION OF 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 a member 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.
- (a) 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

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individual. Recordings shall resume when the privacy concern is no longer an issue unless the circumstances no longer fit the criteria for recording.

- (a) Technical difficulties render the system inoperable.

#### 447.8.2 CESSATION OF RECORDING IN CERTAIN CIRCUMSTANCES

The West Linn 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 member during the scope of the member'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 obtaining audio only if/when this occurs.
- (a) 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.
- (b) 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 obtaining audio only if/when this occurs.
- (a) The recording will cease when an arrestee is 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.
- (a) A witness or victim who wishes to remain anonymous or refuses to provide a statement if recorded and the encounter is non-confrontational.
- (a) While conducting traffic control or scene security with no direct involvement in the initial event.
- (b) Recordings that would jeopardize safety planning for victims.
- (c) Recordings shall remain off during any call to a domestic violence advocate.

#### 447.8.3 NON-RECORDING EVENTS

BWC systems should not be used in the following circumstances:

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1. 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. This provision does not apply if engaged in a law enforcement action.
2. 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.
3. During contact with a citizen informant providing confidential information to an Officer, or speaking with an undercover Officer.
4. While delivering a death notification.
5. 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.).
6. 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.
7. Routine phone contacts, including dispatched calls that are taken by phone.
8. Community policing and citizen engagement activities not involving a present circumstance of engaging in law enforcement inquiry.
9. Interviews of child abuse victims.
10. Interviews of sexual assault victims.
11. Casual contacts with personnel, while on break or engaged in personal activities.
12. Inside police facilities (with the exception of Clackamas County Jail when following established CCSO jail recording policy), briefings, roll calls, debriefings, and department meetings.
13. Inside the West Linn Police Department for any purpose except directly relating to either a case/criminal investigation or the investigation of a complaint.
14. Places of worship and/or religious ceremonies, unless engaged in a law enforcement action.

#### 447.8.4 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 member shall comply with state or any other applicable laws. For custodial interviews, whether at a police facility or not, see ORS 133.402. See also Investigation and Prosecution policy..

#### 447.8.5 SURREPTITIOUS RECORDING

Oregon law generally prohibits any individual from surreptitiously recording any conversation, except as provided in ORS 165.540 and ORS 165.543.

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Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

#### 447.8.6 EXPLOSIVE DEVICE

Devices like BWC systems can emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where there is a reasonable certainty that an explosive device may be present.

#### **447.9 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 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 devices for recording audio/video while on-duty without the express consent of the Captain or the Chief of Police. As authorized, any member who uses a personally owned recorder for department-related activities will comply with the provisions of this policy, including retention and release requirements, and will notify the on-duty supervisor of such use.

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.

#### 447.9.1 PROHIBITED USE OF BODY WORN CAMERA RECORDINGS

Recordings from BWC systems shall not be analyzed with facial recognition or other biometric matching technology (ORS 133.741).

#### **447.10 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving DME, members will download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report. Each file will be categorized, tagged, and contain information related to the date, BWC camera identifier, assigned member, and case number. DME files will be securely downloaded no later than the end of the member's on-duty work shift, if practicable.

A member should flag any incident in which all or some of the DMW should not be released due to its sensitive nature including:

- (a) A complainant, victim or witness has requested non-disclosure.

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- (a) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (a) Disclosure may be an unreasonable violation of someone's privacy.
- (a) Medical or mental health information is contained.
- (a) Disclosure may compromise an undercover officer or confidential informant.
- (a) 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.

#### **447.11 REVIEW OF DIGITAL MULTIMEDIA EVIDENCE (DME)**

##### 447.11.1 MEMBERS

- (a) Except for "Critical Incidents" as defined below, members are permitted to review DME of their own BWC as a resource to help ensure accuracy and consistency when preparing reports or preparing to make or give a statement about their BWC recorded activities.
- (a) Members shall not view DME of other members or persons, unless expressly authorized by a supervisor, management staff or otherwise provided in a criminal investigation by the District Attorney's office or court proceeding. Authorization to review DME will not be unreasonably withheld. 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.
- (a) 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. Violation of this directive is considered serious and subject to disciplinary action. Requests for any DME from a BWC shall be made through the Custodian of Records, System Administrator, Chief of Police, or their authorized designee.

##### 447.11.2 ADMINISTRATIVE REVIEWS AND INVESTIGATIONS

Subject to the provisions of this policy, Supervisors and Management Staff are authorized to review relevant recordings any time for: administrative investigations; when investigating alleged violation of policy, misconduct, complaints or upon receipt of information leading to the need for review of a particular event or circumstances; for review of meritorious conduct; 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.

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- (a) By the supervisor(s) and specific chain of command reviewing use of force events and pursuit after-actions, except for Critical Incidents wherein the Chief's authority is required.
- (a) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (a) For the purposes of an investigation, including witness and complainant interviews, as approved through the Department complaint policy and process.
- (a) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy. Such release requires City Manager approval.

All recordings should be reviewed by the Custodian of Records prior to release responsive to a public records request. Refer to the Records Maintenance and Release Policy. 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.

#### 447.11.3 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 the Chief of Police 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.

#### **447.12 CRITICAL INCIDENTS**

Critical incidents are defined as:

- Use of deadly force resulting in death or serious physical injury as defined by ORS 116.015(8).
- Death of a person while in police custody, OR
- Discharge of a firearm when on duty or engaged in law enforcement activities.

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.

#### 447.12.1 ACTIONS AFTER A CRITICAL INCIDENT

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. 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

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information from the BWC recordings. Information from the review will not be shared with persons involved in the critical incident. Thereafter, DME of the incident may only be viewed by those personnel authorized by the Chief of Police or City Manager in order to assist in an investigation.

The City will provide DME to the Clackamas District Attorney's office as requested. The viewing of DME by others, including the subject employee, for the purposes of a criminal investigation is subject to the sole discretion of the District Attorney's office. Subject to approval by the District Attorney, an employee subject to a criminal investigation may review their own DME footage in the presence of the member's attorney or labor representative before giving a statement.

#### **447.12.2 INTERNAL INVESTIGATIONS OF CRITICAL INCIDENTS**

A. If a criminal investigation is conducted and the employee was afforded the opportunity to review DME footage as provided by the DA's office, then if the employee is subject to interview for an internal investigation, the employee, at their election, may view their own DME footage in the presence of the member'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 designee.

B. If an employee was not permitted to view their DME in a critical incident, either as a result of not being given access by the DA's office or there not being a criminal investigation resulting review by the DA's office, the employee giving a compelled statement in an internal investigation about the critical incident may be required first to first provide a statement. Thereafter, the member may view their own video recording in the presence of the member's attorney or labor representative, and afterwards will be afforded the opportunity clarify or comment in the same interview. Viewing will occur in a secure and private location as determined by the Chief of Police or their authorized designee.

#### **447.13 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 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.



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##### **447.13.1 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. Nothing preclude the Chief of Police or City Manager to release DMW footage to the public subject to applicable law.

##### **447.13.2 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 West Linn 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 West Linn Police Department (ORS 133.741).

##### **447.14 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 practice. The City is not precluded from periodic review of this policy inclusive of outside recommendations.

## Mobile Data Center

### 448.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Data Center (MDC) system in order to ensure appropriate access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between department members and LOCOM.

### 448.2 POLICY

West Linn Police Department members using the MDC shall comply with all appropriate federal and state rules and regulations and shall use the MDC in a professional manner, in accordance with this policy.

### 448.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

### 448.4 RESTRICTED ACCESS AND USE

MDC use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDC system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDC by another member to their supervisors or Shift Supervisors.

Use of the MDC system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks and communications that are directly related to the business, administration or practices of the Department. In the event that a member has questions about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

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

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDC system unless directed to do so by a supervisor. Members are required to log off the MDC or secure the MDC when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

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 and policies and must ensure that unauthorized persons are not given access or allowed to view LEDS information.

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##### 448.4.1 USE WHILE DRIVING

Use of the MDC by the emergency vehicle operator should be limited to times when the vehicle is stopped. However, because police officers are emergency responders use of the MDC while the vehicle is in motion is authorized if/when the situation warrants the use. This does not relieve the operator from their primary duty to drive with due regard for the safety of all persons and property.

##### **448.5 DOCUMENTATION OF ACTIVITY**

Except as otherwise directed by the Shift Supervisor or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and electronically via the MDC unless security or confidentiality prevents such broadcasting.

MDC and voice transmissions are used to document the member's daily activity. To ensure accuracy:

- (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 should be documented by a dispatcher.
- (c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDC.

##### 448.5.1 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the police radio or through the MDC system.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Other changes in status can be made on the MDC when the vehicle is not in motion.

##### 448.5.2 EMERGENCY ACTIVATION

If there is an emergency activation and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a field supervisor and the Shift Supervisor are notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

##### **448.6 EQUIPMENT CONSIDERATIONS**

##### 448.6.1 MALFUNCTIONING MDC

Whenever possible, members will not use vehicles with malfunctioning MDCs. Whenever members must drive a vehicle in which the MDC is not working, they shall notify LOCOM. It shall

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be the responsibility of the dispatcher to document all information that will then be transmitted verbally over the police radio.

#### 448.6.2 BOMB CALLS

When investigating reports of possible bombs, members should not communicate on their MDCs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDC could cause some devices to detonate.

## Medical Marijuana

### 452.1 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 475C.770 et seq.).

This policy is not intended to address laws and regulations related to recreational use of marijuana.

#### 452.1.1 DEFINITIONS

Definitions related to this policy include:

**Attending provider** - A health care provider as defined by ORS 475C.777 who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

**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 provider; 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 475C.777; ORS 475C.791; ORS 475C.786).

**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 and any other activities identified by the Oregon Department of Agriculture (ODA) by rule (ORS 571.269).

**Medical use of marijuana** - The production, processing, possession, delivery, or administration of marijuana, or use of paraphernalia used to administer marijuana, to mitigate the symptoms or effects of a debilitating medical condition (ORS 475C.777).

**Patient** - A person who has been diagnosed with a debilitating medical condition within the previous 12 months and been advised by the person's attending provider that the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition (ORS 475C.889). This includes a person who has been issued a valid RIC for their medical condition (ORS 475C.783).

**Registry Identification Card (RIC)** - A document issued by the Oregon Health Authority under ORS 475C.783 that identifies a person authorized to engage in the medical use of marijuana and,

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if the person has a designated primary caregiver under ORS 475C.789, the person's designated primary caregiver (ORS 475C.777). The RIC may also identify a person applying to produce marijuana or designate another person to produce marijuana under ORS 475C.792.

**Statutory possession and grow site amounts** - Amounts authorized by ORS 475C.806 and ORS 475C.809.

**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 475C.777).

#### **452.2 POLICY**

It is the policy of the West Linn 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 475C.770). 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 West Linn 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.

#### **452.3 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.

##### **452.3.1 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.

##### **452.3.2 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 or grow site amounts (ORS 475C.883).

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Cardholders are required to carry their 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 475C.812). However, officers should treat a person without a RIC in their possession as if it were in their possession if the RIC can be verified through an Oregon State Police Law Enforcement Data Systems (LEDS) query or other sources.

#### 452.3.3 INVESTIGATIONS RELATED TO PATIENT NON-CARDHOLDERS

Officers should not take enforcement action against a patient who does not have a RIC for possession, delivery, or production of marijuana, or any other criminal offense in which possession, delivery, or production of marijuana is an element, if the patient meets all of the following (ORS 475C.889):

- (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 or grow site amounts; and the person's medical use claim appears genuine under the circumstances (ORS 475C.889).

#### 452.3.4 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 475C.792):
  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 475C.806).
- (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 and Cannabis Commission (ORS 475C.137; ORS 475C.806).
- (e) Registration or proof of registration under ORS 475C.770 to ORS 475C.919 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 475C.894).
- (f) As a licensing authority, the Oregon Liquor and Cannabis Commission may assist with related questions regarding recreational marijuana (ORS 475C.065).

#### 452.3.5 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 475C.886):

- (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, 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 475C.005 to ORS 475C.525), 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 475C.413).

#### 452.3.6 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 licensed with the 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 licensed 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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##### **452.4 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.

##### **452.5 PROPERTY AND EVIDENCE DIVISION SUPERVISOR RESPONSIBILITIES**

The Property and Evidence Division supervisor 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 Property and Evidence Division supervisor is not responsible for caring for live marijuana plants (ORS 475C.894).

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property and Evidence Division supervisor shall immediately return to the person from whom it was seized any usable marijuana, plants, drug paraphernalia, or other related property (ORS 475C.894).

The Property and Evidence Division supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Detective Unit supervisor.

## Foot Pursuits

### 458.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

### 458.2 DECISION TO PURSUE

The safety of department members 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 members.

Officers may be justified in initiating a foot pursuit of any individual that 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 alone shall not serve as justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

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 may place department members 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) Saturation of the area with law enforcement personnel, including assistance from other agencies.
- (c) A canine search.
- (d) Thermal imaging or other sensing technology.
- (e) Air support
- (f) 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.

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#### **458.3 GENERAL GUIDELINES**

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

- (a) Directed by a supervisor to terminate the foot pursuit. Such an order shall be considered mandatory.
- (b) The officer is acting alone.
- (c) 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/her location and direction of travel.
- (e) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.
- (f) The physical condition of the officer renders them incapable of controlling the suspect if apprehended.
- (g) The officer loses radio contact with the dispatcher or with assisting or backup officers.
- (h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, 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 resources.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increases the risk to or the public.
- (j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession of his/her firearm or other essential equipment.
- (l) The officer or a third party is injured during the foot pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (m) The suspect's location is no longer known.
- (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 members or the public if the suspect is not immediately apprehended.
- (o) The officer's ability to safely continue the foot pursuit is impaired by inclement weather, darkness or other environmental conditions.

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#### **458.4 RESPONSIBILITIES IN FOOT PURSUITS**

##### **458.4.1 INITIATING OFFICER RESPONSIBILITIES**

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit and containment. When acting alone and when practicable, the initiating officer 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, at a minimum, broadcast the following information as soon as it becomes practicable and available:

- (a) Location and direction of travel
- (b) Call sign identifier
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

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 foot 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 the dispatcher of the officer's 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, to include requesting medical aid as needed for officers, suspects, or members of the public.

##### **458.4.2 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 officers maximum access to the radio frequency.

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.

##### **458.4.3 SUPERVISOR RESPONSIBILITIES**

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,

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control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need to 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 appears to unreasonably 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-foot pursuit activity.

#### **458.5 REPORTING REQUIREMENTS**

The initiating officer shall complete the appropriate crime/arrest reports documenting, at minimum, the following:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.
- (e) Involved vehicles and officers.
- (f) 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 Use of Force Policy.
- (g) Any injuries and/or medical treatment.
- (h) Any property or equipment damage.
- (i) Name of the supervisor at the scene or who handled the incident.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

#### **458.6 POLICY**

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

## Public Recording of Law Enforcement Activity

### 465.1 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.

### 465.2 POLICY

The West Linn 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.

### 465.3 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.

### 465.4 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.

#### **465.5 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.

#### **465.6 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.



## First Amendment Assemblies

### 467.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

### 467.2 POLICY

The West Linn Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

### 467.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential.

The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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##### **467.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS**

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious or social views of associations, or the activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

##### **467.4 UNPLANNED EVENTS**

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to LOCOM, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

##### **467.5 PLANNED EVENT PREPARATION**

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

##### **467.5.1 INFORMATION GATHERING AND ASSESSMENT**

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.

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- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or 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 of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

#### 467.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

- (a) Command assignments, chain of command structure, roles, and responsibilities.
- (b) Staffing and resource allocation.
- (c) Management of criminal investigations
- (d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields).
  1. The plan shall include officer identifiers affixed to the uniform and helmet that comply with ORS 181A.702.
    - (a) An officer shall not intentionally obscure any part of a uniform or helmet identifier.
- (e) Deployment of specialized resources.
- (f) Event communications and interoperability in a multijurisdictional event.
- (g) Liaison with demonstration leaders and external agencies.
- (h) Liaison with City government and legal staff.
- (i) Media relations.
- (j) Logistics: food, fuel, replacement equipment, duty hours, relief, and transportation.
- (k) Traffic management plans.
- (l) First aid and emergency medical service provider availability.
- (m) Prisoner transport and detention.
- (n) Review of policies regarding public assemblies and use of force in crowd control.
- (o) Parameters for declaring an unlawful assembly.
- (p) Arrest protocol, including management of mass arrests.

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- (q) Protocol for recording information flow and decisions.
- (r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.
- (s) Protocol for handling complaints during the event.
- (t) Parameters for the use of body-worn cameras and other portable recording devices.

#### **467.5.3 MUTUAL AID AND EXTERNAL RESOURCES**

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Mutual Aid and Outside Agency Assistance Policy).

#### **467.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS**

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

#### **467.7 USE OF FORCE**

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and conducted energy devices should

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be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

Force or control devices, including oleoresin capsicum (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

#### **467.8 ARRESTS**

The West Linn Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been or reasonably appear likely to be unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

- (a) Reasonable measures to address the safety of officers and arrestees.
- (b) Dedicated arrest, booking and report writing teams.
- (c) Timely access to medical care.
- (d) Timely access to legal resources.
- (e) Timely processing of arrestees.
- (f) Full accountability for arrestees and evidence.
- (g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Citation Releases Policy).

#### **467.9 MEDIA RELATIONS**

The Public Information Officer should use all available avenues of communication, including press releases, briefings, press conferences and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

#### **467.10 DEMOBILIZATION**

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should

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promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

#### **467.11 POST EVENT**

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

- (a) Operational plan
- (b) Any incident logs
- (c) Any assignment logs
- (d) Vehicle, fuel, equipment and supply records
- (e) Incident, arrest, use of force, injury and property damage reports
- (f) Photographs, audio/video recordings, LOCOM records/tapes
- (g) Media accounts (print and broadcast media)

##### **467.11.1 AFTER-ACTION REPORTING**

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

- (a) Date, time and description of the event
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
- (c) Problems identified
- (d) Significant events
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

#### **467.12 PUBLIC REQUEST OF OFFICER IDENTIFICATION**

Officers shall provide their name, identification number, or unique identifier assigned by the Department to a person when requested if it is practical, safe, and tactically sound to do so at the time of request (ORS 181A.704).

The request may be satisfied by providing a department-issued business card.

##### **467.12.1 INVESTIGATION OF OFFICER IDENTIFICATION**

Upon request by a member of the public, the Department shall conduct an investigation to identify an officer as follows (ORS 181A.704):

The member of the public has provided the following:

- The member of the public has provided the following:
  - A partial name

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- A full or partial badge number, or other identifying number
- A photo of the officer
- A full or partial license plate, or other identifying number from a police vehicle
- A physical description
- The location, date, and time when the officer was present

Within seven days of receiving the request, the department shall confirm to the requester receipt of the request.

- Within 14 days after receiving the request, the department shall provide the requester:
  - The name and the number assigned to the officer by the Department of Public Safety Standards and Training; or
  - An explanation of why the identification could not be performed.
- If the requester provided a full badge number, the department shall provide the name of the officer within 14 days after receiving the request.

Identification shall not be provided if the officer is participating in an undercover law enforcement operation (ORS 181A.704).

#### **467.13 TRAINING**

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management. The Department should, when practicable, train with its external and mutual aid partners.

## Medical Aid and Response

### 468.1 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.

### 468.2 POLICY

It is the policy of the West Linn Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

### 468.3 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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#### **468.4 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.

#### **468.5 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.

#### **468.6 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.

#### **468.7 MEDICAL ATTENTION FOR RESTRAINED PERSONS**

When an officer encounters a restrained person suffering a respiratory or cardiac compromise, the officer shall request EMS services immediately if (ORS 133.518):

- (a) It is tactically feasible to make the request.
- (b) The officer has access to communications.

#### **468.8 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.

#### **468.9 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.

The Patrol Division Captain should develop guidelines for air ambulance landings or enter into local operating agreements for the use of air ambulances, as applicable. In creating those guidelines, the Department should identify:

- Responsibility and authority for designating a landing zone and determining the size of the landing zone.
- Responsibility for securing the area and maintaining that security once the landing zone is identified.
- Consideration of the air ambulance provider's minimum standards for proximity to vertical obstructions and surface composition (e.g., dirt, gravel, pavement, concrete, grass).
- Consideration of the air ambulance provider's minimum standards for horizontal clearance from structures, fences, power poles, antennas or roadways.
- Responsibility for notifying the appropriate highway or transportation agencies if a roadway is selected as a landing zone.
- Procedures for ground personnel to communicate with flight personnel during the operation.

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One 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.

#### **468.10 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.

##### 468.10.1 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 Training Coordinator 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.

Any member who uses an AED should contact LOCOM as soon as possible and request response by EMS.

##### 468.10.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use.

##### 468.10.3 AED TRAINING AND MAINTENANCE

The Training Coordinator should ensure appropriate training is provided to members authorized to use an AED.

The Training Coordinator is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule.

#### **468.11 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION**

Members may administer opioid overdose medication in accordance with protocols specified in the Department issued training

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##### **468.11.1 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 Training Coordinator.

Any member who administers an opioid overdose medication should contact LOCOM as soon as possible and request response by EMS.

##### **468.11.2 OPIOID OVERDOSE MEDICATION REPORTING**

Any member administering opioid overdose medication should detail its use in an appropriate report.

The Training Coordinator will ensure that the Assistant to the Chief of Police/Records Supervisor is provided enough information to meet applicable state reporting requirements.

##### **468.11.3 OPIOID OVERDOSE MEDICATION TRAINING**

The Training Coordinator should ensure training is provided to members authorized to administer opioid overdose medication.

#### **468.12 FIRST AID TRAINING**

Subject to available resources, the Training Coordinator 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 West Linn Police Department. Information provided by the Department of Motor Vehicles and Oregon Department of Transportation is a valuable resource for 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 West Linn 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.

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 (ORS 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) Hit-and-Run.
- (c) Attempting to Elude.
- (d) Reckless Driving with extenuating circumstances.
- (e) 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 ORS 810.410.

Officers should attempt to interview the violator to obtain evidence that the violator knew their license was suspended.

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 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 (ORS 809.500).

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##### **500.5 HIGH-VISIBILITY VESTS**

The West Linn 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; OAR 437-002-0134).

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**

High visibility vests are issued to each officer and community service officer. Before going into service each employee shall ensure they have a serviceable high-visibility vest available for their use.



# Traffic Collision Reporting

## 502.1 PURPOSE AND SCOPE

The West Linn 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 RESPONSIBILITY

The Patrol Division will be responsible for proper investigation and reporting of motor vehicle collisions. Traffic collisions will be documented using the Oregon Police Traffic Crash Report (herin OPTC Reports). The Assistant to The Chief of Police will receive all changes in the state manual and ensure conformity with this policy.

## 502.3 TRAFFIC COLLISION REPORTING

All OPTC reports taken by members of this department shall be forwarded to the Records Unit, after approval for data entry into the Records Management System. The Assistant to The Chief of Police will be responsible for annual reports on traffic collision statistics to be forwarded to the Patrol Division Commander, or other persons as required.

## 502.4 REPORTING SITUATIONS

### 502.4.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES

OPTC 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 Memo shall be completed and forwarded to the appropriate Division Captain.

Photographs of the collision scene and vehicle damage shall be taken.

### 502.4.2 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 West Linn resulting in a serious injury or fatality, the Patrol Supervisor should notify the Clackamas County Inter Agency Crash Reconstruction and Forensic Team (CRAFT), the Oregon State Police, Clackamas County Sheriff's Office or an adjoining municipal police agency for assistance.

The term serious injury is defined as any injury that results in hospitalization.

### 502.4.3 TRAFFIC COLLISIONS INVOLVING OTHER CITY EMPLOYEES OR OFFICIALS

When called to a serious injury or fatality crash involving City Officials, or employees of other departments within the city, the Patrol supervisor should request assistance from the Clackamas County Inter Agency Crash Reconstruction and Forensic Team (CRAFT), the Oregon State Police,

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Clackamas County Sheriff's Office or an adjoining municipal police agency for assistance. The term serious injury is defined as any injury that results in hospitalization

#### 502.4.4 TRAFFIC COLLISIONS ON PRIVATE PROPERTY AND PREMISES OPEN TO THE PUBLIC

OPTC reports shall not be taken for collisions occurring on private property or premises open to the public unless there is a death or injury to any person involved, any involved vehicle/s sustained damage of \$2,500 or more, any property other than the involved vehicles sustained damage of \$2,500 or more, or if any vehicle is towed due to damage from the crash. An Incident Report may be taken at the discretion of any supervisor.

#### 502.4.5 REPORT REQUIREMENTS FOR TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS

OPTC 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 any reported injury, no matter how small to any person involved in the collision.
- (b) An involved vehicle sustained damage of \$2,500.00 or more.
- (c) An involved vehicle is towed due to damage from the crash.
- (d) Any property other than the involved vehicles sustained damage of \$2,500 or more.
- (e) 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).
- (f) All hit-and-run violations as defined by Oregon Revised Statutes 811.700 and 811.705. However, an Incident Report may be taken in lieu of a OPTC at the discretion of any supervisor if the facts support (i.e., unknown date, location or other facts that make it impossible to determine if a crime occurred and it would be impractical to conduct an investigation).

#### 502.4.6 TOWING VEHICLES INVOLVED IN TRAFFIC COLLISIONS

A OPTC report will be required if a vehicle is damaged in a collision and a tow truck is necessary. However, 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 OPTC report under this policy unless the incident meets the criteria in Policy Manual § 502.4.5.

#### 502.5 NOTIFICATION OF TRAFFIC DIVISION SUPERVISION

In the event of a serious injury or death related traffic collision, the Patrol Supervisor shall notify the On-Call Sergeant (if a sergeant is not working), the Patrol Division Commander, CRAFT, and the OSP Crime Lab may also be requested to assist with a fatal accident.

# Vehicle Towing

## 510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the West Linn Police Department.

## 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).

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. The vehicle impound report is to be submitted along with the incident report to the Records Unit as soon as practicable after the vehicle is stored.

LOCOM is tasked with promptly entering pertinent data from the completed vehicle impound report into the state's Law Enforcement Data Systems (LEDS).

### 510.2.2 VEHICLES OF ARRESTED DUII DRIVERS

Officers may tow vehicles when the operator is cited for one of the following traffic crimes/violations and a public safety or community caretaking risk would result if the vehicle were left at the scene (Oregon Revised Statutes 809.720 (Community caretaking exceptions following this section):

- (a) Driving while under the influence of intoxicants (Oregon Revised Statutes 813.010).

### 510.2.3 COMMUNITY CARETAKING STANDARD

Vehicles shall not be towed and/or impounded under the authority of ORS 809.720 under any of the following circumstances:

- (a) The vehicle is parked on private property on which the registered owner or operator is legally residing.
- (b) The registered owner is present in the vehicle at the time of the stop and can lawfully remove the vehicle or allow a passenger to do so with a valid driver's license and proof of liability insurance.
- (c) The vehicle is legally parked at a time and place where the likelihood of it being subject to theft/or vandalism is remote and traffic or public safety is not affected. The registered

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owner must be present and make this request, absolving the City of any consequences for leaving the vehicle unattended. Except the vehicle may be towed for community caretaking purposes if the officer has reason to believe that the person cited will remain or return to drive the car unlawfully if it is not impounded. Articulable facts to support this decision must be included in the tow report.

Note: The community caretaking concerns shall be thoroughly documented in a report. In all cases where a vehicle is impounded or towed, the officer shall make every effort to ensure the safety of all the vehicle occupants by providing transportation or communication necessary to avoid stranding any occupant where their safety or security may be in question.

#### 510.2.4 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.

#### 510.2.5 NOTICE TO OWNERS

Once the vehicle is impounded, records personnel shall mail a copy of the impound report 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, not including Saturdays, Sundays or holidays, unless the vehicle has been previously released (ORS 819.180). The notice shall include:

- (a) That the vehicle has been taken into custody and towed; the identity of the appropriate towing authority and the statute, ordinance or rule under which the vehicle has been taken into custody and towed.
- (b) The location of the vehicle, or the telephone number and address of the authority that will provide that information.
- (c) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.
- (d) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the appropriate authority.
- (e) That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and towing it, and to contest the reasonableness of the charges for towing and storage if a hearing is requested in a timely manner.

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- (f) The time within which a hearing must be requested and the method for requesting a hearing.
- (g) That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession, and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority.

#### 510.2.6 DRIVING A NON-CITY VEHICLE

When, after a vehicle has been stopped by police, the driver is taken into custody or is prohibited from driving further, i.e. suspended drivers license, no drivers license, no insurance, etc., and towing the vehicle does not accomplish the stated purpose of this policy, and leaving the stopped vehicle in a position would create a hazard, the officer has the option, with consent of the operator, to move the vehicle to a legal parking area off the roadway.

#### 510.3 TOWING SERVICES

The City of West Linn periodically selects firms to act as the official tow services. These firms 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 of the agreement 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 each authorized no preference operator.

The department will assist citizens by calling any towing company desired. If the citizen has no preference and requests towing service, one of the authorized firms shall be called in rotation.

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).

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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.

#### **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 (e.g., 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).

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**

The contents of all impounded vehicles shall be inventoried in accordance with the following procedure:

- (a) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, the glove box, other accessible areas under or within the dashboard area, any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats.

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- (b) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:
  1. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked glove compartments, unlocked vehicle trunks and unlocked car top containers; and
  2. Any locked compartments including, but not limited to, locked glove compartments, locked vehicle trunks, locked hatchbacks and locked car-top containers, provided the keys are available and are to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
- (c) Closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes except for the following, which shall be opened for inventory: wallets, purses, coin purses, fanny packs, personal organizers, briefcases or other closed containers designed for carrying money or small valuables, or closed containers which are designed for hazardous materials.
- (d) Other closed containers shall be opened and inventoried if the owner acknowledges they contain cash in excess of \$50, valuables or a hazardous material.
- (e) Any valuables, to include cash in excess of \$50 or property valued at more than \$500, located during the inventory process will be listed on a property receipt and stored in this agency's property/evidence room. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present.
- (f) 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.

These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

#### **510.7 VEHICLE SEARCHES**

Case law regarding search and seizure is ever changing and frequently subject to interpretation under the varying facts of each situation. Vehicle searches should be handled according to current training and an officer's familiarity with relevant case law. Generally, a search warrant should be sought prior to conducting a search of a vehicle.

#### **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

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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 non-impaired adult with valid driving privileges will be operating the vehicle.
- (b) Positive identification.
- (c) Proof of compliance with financial responsibility requirements for the vehicle (Insurance and ownership).
- (d) Payment of the West Linn Police Department administrative fee.
- (e) A security interest holder in the vehicle is not required to comply with (a) and (c) and may obtain release by paying the administrative fee, towing and storage fees.



## 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 West Linn 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 to contest the validity of the impoundment and the reasonableness of the tow will be held as follows (ORS 819.190).

Requests for a hearing on an impounded vehicle shall be submitted in writing to the person designated by the West Linn Police Department to receive such requests, within five days of the postmarked date on the notice of impound. The request shall state the grounds upon which the person requesting the hearing believes that the custody and towing of the vehicle was not justified.

The West Linn Municipal Court Judge is designated as the impound hearings officer and will set a time for the hearing within 72 hours of the receipt of the request, excluding Saturdays, Sundays and holidays. The hearings officer will provide notice of the hearing to the person requesting the hearing, to the impounding officer and to any owner, lessor or security interest holder shown in the Oregon Department of Transportation (ODOT) records.

The impound hearings officer, shall consider all information provided and shall determine the validity of the impound based on substantial evidence on the record, according to applicable law and department policy. The hearings officer shall then render a decision. The officer who caused the removal of the vehicle may submit an affidavit to the hearings officer in lieu of a personal appearance.

If the hearings officer decides that the impound was valid, he/she shall order the vehicle held in custody until the cost of the hearing and all reasonable towing and storage costs are paid by the party claiming the vehicle.

If the hearings officer decides that the impound was invalid, he/she shall order the immediate release of the vehicle to the owner or person with right of possession. Such person is not liable for towing or storage charges and shall be reimbursed for such charges if they have already been paid. New storage costs will not start to accrue until more than 24 hours after the time the vehicle is officially released (ORS 819.190).

If a decision is made that the impound was invalid and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded to the appropriate Division Commander for reimbursement by this department to the appropriate party.

## 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 of intoxicants (DUII).

#### 514.1.1 DEFINITIONS

Definitions related to this policy include:

**Intoxicants** - Intoxicating liquor, controlled substances, inhalants, cannabis, psilocybin, and any drug as defined in ORS 475.005 that, when used alone or in combination with any other intoxicant, adversely affects an individual's mental or physical faculties to a noticeable or perceptible degree (2023 Oregon Laws, c. 498, § 2).

### 514.2 POLICY

The West Linn Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Oregon's impaired driving laws.

### 514.3 INVESTIGATIONS

Officers should not enforce DUII laws to the exclusion of their other duties unless specifically assigned to DUII enforcement. All officers are expected to enforce these laws with due diligence.

The Patrol Supervisor will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUII investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in Oregon or another jurisdiction.

### 514.4 CHEMICAL TESTS

A person implies consent under Oregon law to a chemical test or tests, and to providing the associated chemical sample, under any of the following (ORS 813.100):

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- (a) The arresting officer has reasonable grounds to believe that the person was DUII.
- (b) The person is arrested for DUII and takes a breath test that discloses a blood alcohol content of less than 0.08 percent (ORS 813.131).
- (c) The person is arrested for DUII and was involved in an accident resulting in injury or property damage (ORS 813.131).
- (d) The person is receiving medical care at a health care facility immediately after a motor vehicle accident and the arresting officer has reasonable grounds to believe that the person was DUII.

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

#### 514.4.1 BREATH SAMPLES

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Patrol Supervisor.

#### 514.4.2 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (ORS 813.160). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood test because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

#### 514.4.3 URINE SAMPLES

If a urine test will be performed, the person should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

The collection kit shall be marked with the person's name, offense, West Linn Police Department case number and the name of the witnessing officer. The collection kit should be refrigerated pending transportation for testing.

#### 514.4.4 STATUTORY NOTIFICATIONS

Prior to administering any tests, the person shall be informed of the rights and consequences for DUII and refusals of testing (ORS 813.100; ORS 813.130; ORS 813.135).

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##### 514.4.5 ADDITIONAL REQUIREMENTS FOR URINE SAMPLES

An officer may not request that a person submit to a urine test unless the officer is certified by the Department of Public Safety Standards and Training as having completed the required training in the recognition of drug impaired driving. The person providing the urine sample shall be given privacy and may not be observed by the officer when providing the sample (ORS 813.131).

##### 514.4.6 ADDITIONAL TESTING

An officer requesting that a person submit to a chemical test shall also provide the person, upon request, with a reasonable opportunity to have a qualified medical professional of their choosing administer an additional chemical test. The test may be of the person's breath or blood if alcohol concentration is an issue or of the person's blood or urine if the presence of cannabis, psilocybin, a controlled substance, or an inhalant in the person's body is an issue (ORS 813.150).

#### **514.5 REFUSALS**

When an arrestee refuses to provide a chemical sample, officers should:

- (a) Advise the arrestee of the requirement to provide a sample (ORS 813.100; ORS 813.130; ORS 813.131; ORS 813.135).
- (b) Audio- and/or video-record the admonishment and the response when it is legal and practicable.
- (c) Document the refusal in the appropriate report.

##### 514.5.1 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the written notice of intent to suspend upon the person and take possession of any state-issued license to operate a motor vehicle that is held by that person (ORS 813.100).

##### 514.5.2 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained (ORS 813.100).
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts, such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

##### 514.5.3 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

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- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes, a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.
  1. This dialogue should be recorded on audio and/or video when legal and practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
  1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
  2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  3. In felony cases, force that reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

#### **514.6 ARREST AND INVESTIGATION**

##### **514.6.1 OFFICER RESPONSIBILITIES**

If a person refuses to submit to a chemical test or if a test discloses that the person had a prohibited alcohol concentration in their blood, the investigating officer shall cause the following items to be forwarded to the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) within 10 days of the arrest (ORS 813.100; OAR 735-090-0040):

- The completed Implied Consent Form
- Any confiscated license or permit belonging to the person
- A copy of the written report that complies with ORS 813.120

An officer confiscating a person's license pursuant to state DUI laws shall provide the person with a temporary driving permit unless (ORS 813.100; ORS 813.110):

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- The driving privileges of the person were suspended, revoked, or canceled at the time the person was arrested.
- The person whose license was confiscated was operating on an invalid license.
- The person was not entitled to driving privileges at the time of the arrest for any other reason.
- The person holds a license or permit granting driving privileges that was issued by another state or jurisdiction and that is not confiscated.

#### 514.6.2 OFFENSE FOR REFUSAL

If a person refuses to submit to a breath or urine test, the arresting officer may charge the person with a separate offense (ORS 813.095).

#### 514.7 RECORDS DIVISION RESPONSIBILITIES

The Assistant to the Chief of Police/Records Supervisor will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

#### 514.8 ADMINISTRATIVE HEARINGS

The Assistant to the Chief of Police/Records Supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to the DMV.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

An officer called to testify at an administrative hearing should document the hearing date and the DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

#### 514.9 TRAINING

The Training Coordinator should ensure that officers participating in the enforcement of DUII laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques, and rules of evidence pertaining to DUII investigations. The Training Coordinator should confer with the prosecuting attorney's office and update training topics as needed.

## 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 Records Unit 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 a sergeant. Upon a review of the circumstances involving the issuance of the traffic citation, the sergeant may approve 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 prior to or 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 Patrol Operations Division Commander 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. The citation and copies shall then be forwarded to the Records Unit.

### **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 Motion to Amend requesting a specific correction to the Court, through the Records Unit.

### **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 Unit.

Upon separation from employment with the this department, all employees issued traffic citations books shall return any unused citations to the Records Unit.

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#### **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 West Linn 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. Assisting a motorist changing a flat tire is not considered a mechanical repair.

## 72-Hour Parking Violations

### 524.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Oregon Revised Statutes or West Linn City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Oregon Revised Statutes 819.110.

### 524.2 MARKING VEHICLES

When a vehicle is suspected of being in violation of the City of West Linn 72-Hour Parking Ordinance, the responding officer or community service officer shall make an attempt to identify the owner of the vehicle. If the owner cannot be contacted and advised, the Officer may do the following. No case number is required at the time of the initial contact.

- (a) The tire shall be marked by some means, generally by chalk or yellow marker. A parking violation warning indicating "Abandoned / 72 hour" shall be prominently attached to a window in a manner that does not block a driver's visibility.
- (b) If a patrol officer responded to the initial call, the officer will print a copy of the incident from LOCOM's log and affix any notes indicating to the community service officer what action was taken and submit it to the community service officer.
- (c) If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle shall be marked again for the 72-hour parking violation.
- (d) If it is not possible for the community service officer to follow up on the violation, the issuing officer should make an attempt to check the status of the vehicle after the 72 hour time period has expired.

#### 524.2.1 MARKED VEHICLE FILE

The Community Service Officers(CSO) will be responsible for maintaining a file for all marked vehicles.

The CSO assigned to the follow up investigation of all 72-hour parking violations shall be responsible for completing the investigation.

#### 524.2.1 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 a patrol Supervisor for review and then forwarded to the Records Division immediately following the towing of the vehicle. Generally, the vehicle will be entered into LEADS when the officer notifies dispatch and when a case number is taken for the tow. It may also be the responsibility of the Records Division to enter the vehicle into LEADS.

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Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records Division 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 IMPOUND HEARING**

When a vehicle is stored under this section by any member of the West Linn Police Department, a hearing will be conducted upon the timely request of any person who reasonably appears to have an interest in the vehicle.

## **Chapter 6 - Investigation Operations**

## Investigation and Prosecution

### 600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

### 600.2 INITIAL INVESTIGATION

#### 600.2.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
  - 1. An initial statement from any witnesses or complainants.
  - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the officer shall:
  - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
  - 2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
  - 3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Shift Supervisor.
  - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
  - 5. Collect any evidence.
  - 6. Take any appropriate law enforcement action.
  - 7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

#### 600.2.2 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn 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 shall be requested.

#### 600.2.3 INTERVIEWS OF CHILD WITNESSES

The Captain or the authorized designee is responsible for the development of child witness interview procedures that include parental notification and account for child safety.

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A. Parental notification should be made as soon as practicable after interviewing a "child witness". "Child Witness" is defined in OR SB 386 as an unmarried person who is under 18 years of age and who is not the victim of, suspect in or related to the suspect in a child welfare, criminal or delinquency investigation. The notification should be made verbally and shall be documented in the appropriate related report.

B. If transporting a "child witness" to a suitable location for a formal interview, consent *TO TRANSPORT* should be obtained from the parent or guardian, if available, prior to transportation.

#### **600.3 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).

#### **600.4 CUSTODIAL INTERROGATION REQUIREMENTS**

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies.

##### **600.4.1 AUDIO/VIDEO RECORDINGS**

Generally, except where circumstances make it impracticable, custodial interviews regarding felony offenses should be electronically recorded. When such custodial interviews are conducted in a law enforcement facility, electronic recording of the interview is mandatory absent good cause not to record if the interview is conducted in connection with an investigation into aggravated murder, as defined in ORS 163.095, or a crime listed in ORS 137.700 or ORS 137.707 (ORS 133.400).

A custodial interview of a person 17 years of age or under involving an investigation into a misdemeanor or a felony or an allegation that the juvenile being interviewed committed an act that would be a misdemeanor or a felony if committed by an adult shall be recorded, absent good cause not to record the interview, if (ORS 133.402):

- (a) The interview is conducted at a courthouse or at any law enforcement agency authorized to detain juvenile offenders; or
- (b) The interview is conducted anywhere else and the officer is wearing a body-worn camera.

If an interviewee expresses an unwillingness to have the custodial interview electronically recorded but agrees to speak to investigators without such recording, the interviewing officer or detective should document the refusal in his/her report and request that the interviewee sign a written statement or provide a recorded statement of his/her refusal to have the interview recorded.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law (ORS 165.540).

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No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Detective Unit supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate, and complete and are made only for authorized and legitimate law enforcement purposes. Electronic recording of a custodial interview shall be preserved until the conclusion of the criminal proceeding or youth adjudication proceeding, including post-conviction relief and habeas corpus appeals are exhausted, or until the prosecution of the offense is barred by law (ORS 133.400).

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

#### **600.5 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.
- (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.

#### **600.6 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

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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.

#### **600.7 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).

##### **600.7.1 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.

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.

##### **600.7.2 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.



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##### **600.8 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 Division 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.

##### **600.9 INVESTIGATIVE PROCEDURES**

The Administrative Services/Investigations Division Captain or the authorized designee is responsible for the development of investigative procedures including:

- (a) Guidance for interacting with persons who have experienced trauma consistent with the Substance Abuse and Mental Health Services Administration's (SAMHSA) trauma-informed principles adopted by DPSST (ORS 181A.445).
  1. Procedures should include interview techniques and considerations to take into account when writing reports based upon interviews with persons who have experienced trauma.

## Asset Forfeiture

### 606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

#### 606.1.1 DEFINITIONS

Definitions related to this policy include:

**Civil Forfeiture** - The following, with certain restrictions, may be subject to civil forfeiture when used for prohibited conduct (ORS 131A.020):

- Containers for controlled substances and related compounds.
- Conveyances, including but not limited to aircraft, vehicles, and vessels used to transport, sell, or conceal controlled substances.
- Proceeds from prohibited conduct or money, deposits, or other things of value used to facilitate prohibited conduct.
- Real property or interest in real property.
- Weapons possessed or used to facilitate prohibited conduct.
- Property used for attempts to commit prohibited conduct, solicitations to commit prohibited conduct, and conspiracies.
- A motor vehicle when the driver is arrested or cited for driving while suspended or revoked under ORS 811.182 or ORS 163.196 and has been convicted of either offense within the past three years (ORS 809.740).

**Criminal Forfeiture** - The following, with certain restrictions, may be subject to criminal forfeiture when used, or intended to be used, for prohibited conduct (ORS 131.558):

- Containers for controlled substances and related compounds.
- Conveyances, including aircraft, vehicles, and vessels used to transport, sell, or conceal controlled substances.
- Proceeds from prohibited conduct or money, deposits, or other things of value used to facilitate prohibited conduct.
- Real property or interest in real property.
- Weapons possessed or used to facilitate prohibited conduct.
- Property used for attempts to commit prohibited conduct, solicitations to commit prohibited conduct, and conspiracies.
- All other personal property that is used or intended to be used to commit or facilitate prohibited conduct.

**Fiscal agent** - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings.

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This includes any time the West Linn Police Department seizes property for forfeiture or when the West Linn Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

**Forfeiture reviewer** - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

**Prohibited conduct** - In the context of criminal forfeiture, refers to a felony or a Class A misdemeanor for purposes of proceeds, and any crime listed in ORS 131.602 for purposes of instrumentalities (ORS 131.550).

Prohibited conduct in the context of civil forfeiture refers to any of the following (ORS 131A.005):

- Crimes related to the Uniform Controlled Substances Act (specifically, ORS 475.005 through ORS 475.285 and ORS 475.744 through ORS 475.980).
- Crimes involving violation of, or solicitation, attempt, or conspiracy to violate ORS 475C.337, ORS 475C.341, ORS 475C.345, or ORS 475C.349.
- Violation of, or solicitation, attempt, or conspiracy to violate ORS 475C.229.
- Involuntary servitude or compelling prostitution (ORS 163.263; ORS 163.264; ORS 163.266; ORS 167.017).
- Other local crimes allowing for civil forfeiture (ORS 131A.010).

**Seizure** - The act of law enforcement officials taking property, cash, or assets that have been used in connection with or acquired by specified illegal activities.

#### **606.2 POLICY**

The West Linn Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the West Linn Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

#### **606.3 ASSET SEIZURE**

Property may be seized for forfeiture as provided in this policy.

##### **606.3.1 PROPERTY SUBJECT TO SEIZURE**

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Civil forfeiture

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1. Property that is subject to a court order (ORS 131A.060).
2. Property that is not subject to a court order if (ORS 131A.065):
  - (a) There is probable cause to believe that the property is subject to forfeiture and the property may constitutionally be seized without a warrant.
  - (b) The seizure is in the course of a constitutionally valid criminal investigative stop, arrest or search, and there is probable cause to believe that the property is subject to civil forfeiture.
  - (c) The property is directly or indirectly dangerous to the health or safety of any person.
  - (d) An owner consents to the seizure.
- (b) Criminal forfeiture
  - (a) Property that is subject to a court order (ORS 131.561).
  - (b) Property that is not subject to a court order when (ORS 133.535; ORS 131.561):
    - (a) The property subject to criminal forfeiture is also evidence of a crime or is illegal to possess.
    - (b) There is probable cause to believe that the property is 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 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

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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.

Whenever practicable, a court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

#### 606.3.2 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.

#### 606.3.3 PROPERTY NOT SUBJECT TO SEIZURE

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds
- (b) A conveyance owned by a common carrier or person who did not consent to the offense in question or had no knowledge of the offense (i.e., an "innocent owner") (ORS 131.558)

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##### 606.3.4 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 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.

##### **606.5 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

- (a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.
- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property 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.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

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Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

#### **606.6 MAINTAINING SEIZED PROPERTY**

The Property and Evidence Division 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.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

#### **606.7 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) Deciding whether the forfeiture is more appropriately made under state or federal forfeiture 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. A consensual search of a motor vehicle form should be available for field use as well (ORS 131A.025). The forms should be available in languages appropriate for the region and should contain spaces for:

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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 (ORS 131.561; 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 (DTBs) or Interim 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 intent to seek forfeiture has been given in a timely manner to those who hold an interest in the seized property (ORS 131.570; ORS 131A.150). Information on filing 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.



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- (k) Disabling hidden compartments in vehicles when appropriate (ORS 131.566; ORS 131A.030).
- (l) Ensuring that forfeiture proceeds are maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures,
- (m) Ensuring that forfeiture reporting and expenditures are completed in the manner prescribed by the law and City financial directives.

#### **606.8 DISPOSITION OF FORFEITED PROPERTY**

Property forfeited through the criminal forfeiture process shall be disposed of in accordance with ORS 131.588 and ORS 131.594, and any applicable intergovernmental agreement. Forfeited cigarettes shall be destroyed, not sold (ORS 131.604).

Property forfeited through the civil forfeiture process shall be disposed of in accordance with ORS 131A.350 and ORS 131A.360, and any applicable intergovernmental agreement.

Criminally or civilly forfeited grow or lab equipment may be donated to educational institutions (ORS 131.594; ORS 131A.360).

##### **606.8.1 DISPOSITION OF RECORDS**

Written documentation of each sale, decision to retain, transfer, or other disposition of forfeited property will be maintained and any information requests necessary for the forfeiture counsel's electronic reports shall be addressed (ORS 131.600; ORS 131A.450).

## 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 West Linn Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the West Linn Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

### 608.2 POLICY

The West Linn 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 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
- (c) The court in which the juvenile's case is being handled, if applicable
- (d) The Chief of Police or the authorized designee

#### 608.3.3 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.

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Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

#### **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, Division 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 West Linn 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, Division Captain, Detective Division supervisor or their authorized designees.

The Administrative Services/Investigations Division 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 Patrol Division 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) West Linn 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 West Linn 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

Officers 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 officer 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 Unit 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.

## Brady Material Disclosure

### 612.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

#### 612.1.1 DEFINITIONS

Definitions related to this policy include:

**Brady information** - Information known or possessed by the West Linn Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

### 612.2 POLICY

The West Linn Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the West Linn Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

### 612.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor’s office.

If information is believed to be privileged or confidential (e.g., informant or attorney-client information, attorney work product), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome 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, the officer should address the issue with a supervisor.

Supervisors who are 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 department case file.

### 612.4 DISCLOSURE OF REQUESTED INFORMATION

If a member of this department is a material witness in a criminal case, a person or persons designated by the Chief of Police shall examine the personnel file and/or internal affairs file of the

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officer to determine whether they contain *Brady* information. If *Brady* information is located, the following procedure shall apply:

- (a) In the event that a motion has not already been filed by the criminal defendant or other party, the prosecuting attorney and department member shall be notified of the potential presence of *Brady* material in the member's personnel file.
- (b) The prosecuting attorney or department counsel should be requested to file a motion in order to initiate an in-camera review by the court.
  1. If no motion is filed, the supervisor should work with counsel to determine whether the records should be disclosed to the prosecutor.
- (c) The Custodian of Records shall accompany all relevant personnel files during any in-camera inspection to address any issues or questions raised by the court.
- (d) If the court determines that there is relevant *Brady* material contained in the files, only that material ordered released will be copied and released to the parties filing the motion.
  1. Prior to the release of any materials pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such materials to the involved case and requiring the return of all copies upon completion of the case.
- (e) If a court has determined that relevant *Brady* information is contained in the member's file in any case, the prosecutor should be notified of that fact in all future cases involving that member.

#### **612.5 INVESTIGATING BRADY ISSUES**

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

#### **612.6 TRAINING**

Department personnel should receive periodic training on the requirements of this policy.

#### **612.7 BRADY PROCESS**

The Chief of Police shall select a member of the Department to coordinate requests for *Brady* information. This person shall be directly responsible to the Administrative Services/Investigations Division Captain or the authorized designee.

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

- (a) Working with the appropriate prosecutors' offices and the City Attorney's office to establish systems and processes to determine what constitutes *Brady* information and the method for notification and disclosure.
- (b) Maintaining a current list of members who have *Brady* information in their files or backgrounds.

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1. Updating the list whenever potential *Brady* information concerning any department member becomes known to the Department or is placed in a personnel or internal affairs file.

## Warrant Service

### 613.1 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.

### 613.2 POLICY

It is the policy of the West Linn 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.

### 613.3 OPERATIONS DIRECTOR

The role of operations director should be performed first by the Operations Captain and in their absence, the Investigations Captain. In the event that both Captains are unavailable, the Chief of Police will appoint a designee to act as 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.

### 613.4 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. They 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).

### 613.5 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).

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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.

#### **613.6 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).

#### **613.7 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

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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.
- (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.

#### **613.8 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.

#### **613.9 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.

#### **613.10 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



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- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

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 West Linn Police Department are utilized appropriately. Any concerns regarding the requested use of West Linn 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 Shift Supervisor should assume this role.

If officers intend to serve a warrant outside West Linn 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 West Linn Police Department when assisting outside agencies or serving a warrant outside West Linn Police Department jurisdiction.

#### **613.11 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.

#### **613.12 TRAINING**

The Training Coordinator 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

### 614.1 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.

#### 614.1.1 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.

### 614.2 POLICY

It is the policy of the West Linn 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.

### 614.3 OPERATIONS DIRECTOR

The role of operations director should be performed first by the Operations Captain and in their absence, the Investigations Captain. In the event that both Captains are unavailable,

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.

### 614.4 RISK ASSESSMENT

#### 614.4.1 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.

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The officer should gather available information that includes, but is not limited to:

- (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).

#### 614.4.2 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.

#### 614.4.3 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:
  - (a) SWAT/CNT
  - (b) Additional personnel
  - (c) Outside agency assistance
  - (d) Special equipment
  - (e) Medical personnel
  - (f) Persons trained in negotiation

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- (g) Additional surveillance
- (h) Canines
- (i) Property and Evidence Division or analytical personnel to assist with cataloguing seizures
- (j) Forensic specialists
- (k) 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.

#### **614.5 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.

#### **614.6 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

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- hazardous materials, the potential for multiple dwellings or living spaces, 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.

#### **614.6.1 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.

#### **614.7 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.

#### **614.8 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.

#### **614.9 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.

#### **614.10 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.

#### **614.11 TRAINING**

The Training Coordinator 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

### 615.1 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.

#### 615.1.1 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.

**Victim Advocate (VA)** - Personal support provided to a victim of sexual assault by the District Attorneys' Office. A victim advocate can explain reporting options, provide support during a medical exam, provide information and referrals, help victims access funds to pay for medical exams and assist with filing court paperwork.

### 615.2 POLICY

It is the policy of the West Linn 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.

### 615.3 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.



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- (f) Participate in or coordinate with the SART or other multidisciplinary investigative teams as applicable (ORS 147.401).

#### **615.4 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.

#### **615.5 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 or a VA 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.

##### **615.5.1 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).

#### **615.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE**

Whenever possible, a SART member or a VA 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.

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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).

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.

##### **615.6.1 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.

##### **615.6.2 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 or a VA 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.

##### **615.7 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 Unit supervisor.

Classification of a sexual assault case as unfounded requires the Detective Unit 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

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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.

#### **615.8 CASE REVIEW**

The Detective Unit 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.

#### **615.9 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 Unit 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.

#### **615.10 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.

## Chapter 7 - Equipment

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## 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.
- (f) All property and equipment issued by the Department shall be documented in the appropriate property sheet or equipment log. Receipt of issued items shall be acknowledged by the receiving member's signature. Upon separation from the Department, all issued property and equipment shall be returned. Documentation of the return shall be acknowledged by the signature of a supervisor. The Administrative Captain shall be responsible for developing and maintaining procedures for the inventory control of department property.

### 700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be by memorandum. This memorandum is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage. Reimbursement for damaged or lost personal property will be limited to no more than \$50.

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

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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.

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.

## Personal Communication Devices

### 702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCD) but is intended to include all mobile telephones, personal digital assistants (PDA) and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, e-mailing, using video or camera features, playing games and accessing sites or services on the Internet.

### 702.2 POLICY

The West Linn Police Department allows employees to utilize department-issued PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

### 702.3 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued or personally owned PCDs that have been used to conduct department-related business. Administrative searches can take place for work-related purposes that may be unrelated to investigations of employee misconduct and, as practicable, will be done in the presence of the

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affected employee. Prior to conducting any search of personally owned devices, supervisors shall consult with the Chief of Police. All such searches shall be fully documented in a written report.

#### **702.4 DEPARTMENT-ISSUED PCD**

The West Linn Police Department issues PCD's to each sergeant, officer, and community service officer. Department-issued PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless an employee is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

#### **702.5 PERSONALLY OWNED PCD**

Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Carrying a personally owned PCD is a privilege, not a right.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) Employees shall promptly notify the Department in the event the PCD is lost or stolen.
- (d) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.
- (e) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Employees will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
- (f) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief of Police or the authorized designee.
- (g) Use of a personally owned PCD constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, employees will provide the Department with all telephone access numbers of the device.

Except with prior express authorization from their supervisor, employees are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If an employee is in an authorized status that allows for appropriate



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compensation consistent with policy or existing collective bargaining agreements, or if the employee has prior express authorization from his/her supervisor, the employee may engage in business-related communications. Should employees engage in such approved off-duty communications or work, employees entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Employees who independently document off-duty department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

#### **702.6 USE OF PERSONAL COMMUNICATION DEVICES**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Employees shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (d) Employees may use a PCD to communicate with other personnel in situations where the use of the radio is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid or in lieu of regular radio communications.
- (e) Officers are prohibited from taking pictures, video or making audio recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the or the authorized designee, may result in discipline.
- (f) Employees will not access social networking sites for any purpose that is not official department business.
- (g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor.

#### **702.7 SUPERVISORY RESPONSIBILITIES**

Supervisors should ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors should monitor, to the extent practicable, PCD use in the workplace and take prompt corrective action if an employee is observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant.

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If, when carrying out any provision of this policy, the need to contact an employee who is off-duty arises, supervisors should consider delaying the contact, if practicable, until the employee is on-duty as such contact may be compensable.

#### **702.8 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Except in an emergency, employees who are operating non-emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (ORS 811.507). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

#### **702.9 OFFICIAL USE**

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, employees shall conduct sensitive or private communications on a land-based or other department communications network.

The following situations are examples of when the use of a PCD may be appropriate:

- (a) Barricaded suspects
- (b) Hostage situations
- (c) Mobile Command Post
- (d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.
- (e) Major political or community events
- (f) Investigative stakeouts
- (g) Emergency contact with an allied agency or allied agency field unit
- (h) When immediate communication is needed and the use of the radio is not available or appropriate and other means are not readily available

## 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, including, but not limited to, the lack of a working siren, emergency lights and/or radio communications, 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 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

#### 704.2.2 SEVERE USE

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

#### 704.2.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured in the department armory prior to the vehicle being released for maintenance, service or repair.

### 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, or spray paint
- 1 Roll Crime Scene Barricade Tape
- 1 First aid kit, CPR mask
- 1 Blanket
- 1 Fire extinguisher

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- 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
- 1 Evidence collection supplies
- 1 Roll of Crime Scene tape
- 3-4 28" Traffic Cones with reflective collars or equivalent
- Hand sanitizer
- Tire Deflation device

Optional: Broom, shovel, nitrile gloves

#### 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 gloves
- 1 Sharps container
- 1 Hazardous waste disposal bag
- 1 Traffic Safety Vest
- Spray paint, or yellow crayon or chalk1 Evidence collection supplies
- Traffic cones or equivalent

#### 704.3.3 EMERGENCY EQUIPMENT

All motor vehicles used for patrol purposes, either marked or unmarked, are emergency vehicles as defined by Oregon Revised Statutes 816.250. These vehicles shall be equipped with emergency lighting and sirens in compliance with ORS 816.250 and OAR 735-110-0010 through 735-110-0050.

Patrol vehicles, either marked or unmarked, shall have at a minimum a two-way police radio capable of communicating with LOCOM and other West Linn Police vehicles.

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##### **704.4 VEHICLE REFUELING**

Absent emergency conditions or supervisor approval, officers driving patrol vehicles should be fueled at the end of each shift or when practical. Vehicles shall only be refueled at the authorized location.

##### **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.

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. This does not pertain to community service officers operating vehicles specifically designed for community service officer functions. Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

Marked vehicles released to non departmental 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 AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the City of West Linn to provide assigned take-home vehicles.

### 706.2 POLICY

The West Linn Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

### 706.3 USE OF PATROL VEHICLES

#### 706.3.1 SHIFT ASSIGNED VEHICLES

At the beginning of each patrol shift the member shall log their vehicle number with LOCOM under the prescribed method. If a member exchanges vehicles during their shift, the member shall notify LOCOM of the new vehicle number.

#### 706.3.2 INSPECTIONS

Members 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 shift. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner, or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All department vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle.

#### 706.3.3 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, equipment charging). Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

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Members shall ensure all weapons are secured while the vehicle is unattended.

#### 706.3.4 VEHICLE LOCATION SYSTEM

Patrol and other vehicles, at the discretion of the Chief of Police, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system. At the start of each shift, members shall verify that the system is on and report any malfunctions to their supervisor. If the member finds that the system is not functioning properly at any time during the shift, they should exchange the vehicle for one with a working system, if available.

System data may be accessed by supervisors at any time. However, access to historical data by personnel other than supervisors will require Captain approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

#### 706.3.5 MOBILE DATA CENTER

Members assigned to vehicles equipped with a Mobile Data Center (MDC) shall log onto the MDC with the required information when going on-duty. If the vehicle is not equipped with a working MDC, the member shall notify LOCOM. Use of the MDC is governed by the Mobile Data Center Use Policy.

#### 706.3.6 AUTHORIZED PASSENGERS

Members operating department-owned vehicles may permit persons, other than City personnel to ride as passengers in the vehicle. Members should be aware that under certain circumstances, passengers may be subject to state minimum insurance limits.

#### 706.3.7 ALCOHOL

Members who have consumed alcohol are prohibited from operating any department vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

#### 706.3.10 PARKING

Except when responding to an emergency or when urgent department-related business requires otherwise, members driving marked department vehicles should obey all parking regulations at all times.

#### 706.3.9 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the Chief of Police or Captain.

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#### **706.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES**

Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment or when the take home vehicle privilege is revoked by the Chief of Police. Examples may include unsafe driving, traffic citations, accidents, or complaints.

##### **706.4.1 ON-DUTY USE**

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other department members at the discretion of the Chief of Police or the authorized designee.

##### **706.4.2 UNSCHEDULED USE OF VEHICLES**

Personnel utilizing a City owned vehicle for any purpose other than scheduled patrol duties shall first notify the Patrol Supervisor of the reasons for use and a notation will be made on the briefing room white board with the operator's name, dates of use and vehicle number. This section does not apply to personnel permanently assigned an individual vehicle (e.g., Command Staff, Detectives), or to Property or Records personnel assigned transportation duties to and from other facilities.

##### **706.4.3 UNSCHEDULED TAKE-HOME USE OF MARKED OR UNMARKED VEHICLES**

Circumstances may arise where department vehicles must be used by members to commute to and from a work assignment. Members may take home department vehicles only with prior approval of a supervisor and shall meet the following criteria:

- (a) The circumstances are unplanned and were created by the needs of the Department.
- (b) Other reasonable transportation options are not available.
- (c) The member lives within a reasonable distance (generally not to exceed a 30 mile radius) of the West Linn City limits.
- (d) Off-street parking will be available at the member's residence.
- (e) Vehicles will be locked when not attended.
- (f) All firearms, weapons and control devices will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.

##### **706.4.4 ASSIGNED VEHICLES**

Assignment of take-home vehicles shall be based on the location of the member's residence; the nature of the member's duties, job description and essential functions; and the member's employment or appointment status. The location of a member's residence is a prime consideration for assignment of a take-home vehicle. Members who reside outside of a 30 mile radius to the West



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Linn Police Department will generally not be assigned take-home vehicles. Except as provided by a collective bargaining agreement, time spent during normal commuting is not compensable.

Members are cautioned that under federal and local tax rules, personal use of a City vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member's tax adviser.

Criteria for use of take-home vehicles include the following:

- (a) Vehicles may be used to transport the member to and from the member's residence for work-related purposes. Personal errands and transports of short duration, as part of an employee's normal commute to and from work, are allowed.
- (b) Vehicles will not be used when off-duty except:
  - 1. In circumstances when a member has been placed on call by the Chief of Police or Division Captains and there is a high probability that the member will be called back to duty.
  - 2. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or traveling to or from a work-related activity or function.
  - 3. When the member has received permission from the Chief of Police or Division Captains.
  - 4. When the vehicle is being used by the Chief of Police, Division Captains or members who are in on-call administrative positions.
  - 5. When the vehicle is being used by on-call investigators.
- (c) While operating the vehicle, authorized members will carry and have accessible their duty or an approved off-duty firearm and be prepared to perform any function they would be expected to perform while on-duty.
- (d) The two-way communications radio, MDC and global positioning satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation in West Linn
- (e) Unattended vehicles are to be locked and secured at all times.
  - 1. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging).
  - 2. All weapons shall be secured while the vehicle is unattended.
  - 3. All department identification, portable radios and equipment should be secured.
- (f) Vehicles are to be parked off-street at the member's residence unless prior arrangements have been made with the Chief of Police or the authorized designee. Vehicles will not be allowed to be parked in communal residential parking areas (i.e. apartment complexes). If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be locked inside the vehicle's trunk vault (if installed),

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or removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).

- (g) Vehicles are to be secured at the member's residence or the appropriate department facility, at the discretion of the Department when a member will be away (e.g., on vacation) for periods exceeding one week.
  - 1. If the vehicle remains at the residence of the member, the Department shall have access to the vehicle.
  - 2. If the member is unable to provide access to the vehicle, it shall be parked at the Department.
- (h) The member is responsible for the care of the vehicle and scheduling maintenance of the vehicle.

#### 706.4.5 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the West Linn Police Department or while off-duty, an officer shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Officers may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Officers driving take-home vehicles shall be armed, appropriately attired and carry their department-issued identification. Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

#### 706.4.6 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Department. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the department supervisor in charge of vehicle maintenance.
- (d) The Department shall be notified of problems with the vehicle and approve any major repairs before they are performed.
- (e) All weapons shall be removed from any vehicle left for maintenance.
- (f) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

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##### **706.5 KEYS AND SECURITY**

All uniformed field members approved to operate marked patrol vehicles should be issued a copy of the unit key as part of their initial equipment distribution upon hiring. Officers shall not duplicate keys.

Members assigned a permanent vehicle should be issued keys for their assigned vehicle.

The loss of any key shall be promptly reported in writing through the member's chain of command.

##### **706.6 ATTIRE AND APPEARANCE**

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

##### **706.7 VEHICLE DAMAGE, ABUSE AND MISUSE**

When a City-owned vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see also the Traffic Collision Reporting Policy).

When a collision involves a City-owned 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 supervisor should request that an outside law enforcement agency be summoned to investigate the collision.

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 Supervisor.

An administrative investigation could be initiated to determine if there is any vehicle abuse or misuse.

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## Cash Handling, Security and Management

### 707.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure department members handle cash appropriately in the performance of their duties.

This policy does not address cash-handling issues specific to the Property and Evidence and Informants policies.

### 707.2 POLICY

It is the policy of the West Linn Police Department to properly handle and document cash transactions and to maintain accurate records of cash transactions in order to protect the integrity of department operations and ensure the public trust.

### 707.3 PETTY CASH FUNDS

The Chief of Police shall designate a person as the fund manager responsible for maintaining and managing the petty cash fund.

Each petty cash fund requires the creation and maintenance of an accurate and current transaction ledger and the filing of invoices, receipts, cash transfer forms and expense reports by the fund manager.

Refer to the West Linn Finance Department's "Petty Cash Policy" for further details.

### 707.4 PETTY CASH TRANSACTIONS

The fund manager shall document all transactions on the ledger and any other appropriate forms. Each person participating in the transaction shall sign or otherwise validate the ledger, attesting to the accuracy of the entry. Transactions should include the filing of an appropriate receipt, invoice or cash transfer form. Transactions that are not documented by a receipt, invoice or cash transfer form require an expense report.

### 707.5 PETTY CASH AUDITS

The fund manager shall perform an audit no less than once every six months. This audit requires that the fund manager and at least one command staff member, selected by the Chief of Police, review the transaction ledger and verify the accuracy of the accounting. The fund manager and the participating member shall sign or otherwise validate the ledger attesting to the accuracy of all documentation and fund accounting. A discrepancy in the audit requires documentation by those performing the audit and an immediate reporting of the discrepancy to the Chief of Police.

Transference of fund management to another member shall require a separate petty cash audit and involve a command staff member.

A separate audit of each petty cash fund should be completed on a random date, approximately once each year by the Chief of Police or the City.

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##### **707.6 ROUTINE CASH HANDLING**

Those who handle cash as part of their property or Detective Division supervisor duties shall discharge those duties in accordance with the Property and Evidence and Informants policies.

Members who routinely accept payment for department services shall discharge those duties in accordance with the procedures established for those tasks.

##### **707.7 OTHER CASH HANDLING**

Members of the Department who, within the course of their duties, are in possession of cash that is not their property or that is outside their defined cash-handling responsibilities shall, as soon as practicable, verify the amount, summon another member to verify their accounting, and process the cash for safekeeping or as evidence or found property, in accordance with the Property and Evidence Policy.

Cash in excess of \$1,000 requires immediate notification of a supervisor, special handling, verification and accounting by the supervisor. Each member involved in this process shall complete an appropriate report or record entry.

Refer to Policy 608 regarding cash handling for Confidential Informants.

## Personal Protective Equipment

### 708.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Department as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

#### 708.1.1 DEFINITIONS

Definitions related to this policy include:

**Personal protective equipment (PPE)** - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical or other workplace hazards.

**Respiratory PPE** - Any device that is worn by the user to protect from exposure to atmospheres where there is smoke, low levels of oxygen, high levels of carbon monoxide, or the presence of toxic gases or other respiratory hazards. For purposes of this policy, respiratory PPE does not include particulate-filtering masks such as N95 or N100 masks.

### 708.2 POLICY

The West Linn Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

### 708.3 OFFICER RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Illness and Injury Prevention Policy to recommend new or improved PPE or additional needs for PPE.

### 708.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in 29 CFR 1910.95 and OAR 437-002-0080.

### 708.5 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

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The Rangemaster shall ensure eye protection meets or exceeds the requirements provided in OAR 437-002-0134.

#### **708.6 HEAD AND BODY PROTECTION**

Members who make arrests or control crowds should be provided ballistic head protection with an attachable face shield.

Padded body protection consisting of chest, arm, leg and groin protection should be provided as required by any collective bargaining agreement.

#### **708.7 RESPIRATORY PROTECTION**

The Administrative Services/Investigations Division Captain is responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall include procedures for (29 CFR 1910.134; OAR 437-002-0120):

- (a) Selecting appropriate respiratory PPE based on hazards and risks associated with functions or positions.
- (b) Fit testing, including identification of members or contractors qualified to conduct fit testing.
- (c) Medical evaluations.
- (d) PPE inventory control.
- (e) PPE issuance and replacement.
- (f) Cleaning, disinfecting, storing, inspecting, repairing, discarding and otherwise maintaining respiratory PPE, including schedules for these activities.
- (g) Regularly reviewing the PPE plan.
- (h) Remaining current with applicable National Institute for Occupational Safety and Health (NIOSH), American National Standards Institute (ANSI), Occupational Safety and Health Administration (OSHA), Environmental Protective Agency (EPA) and state PPE standards and guidelines.

##### **708.7.1 RESPIRATORY PROTECTION USE**

Designated members may be issued respiratory PPE based on the member's assignment (e.g., a narcotics investigator who is involved in clandestine lab investigations).

Respiratory PPE may be worn when authorized by a scene commander who will determine the type and level of protection appropriate at a scene based upon an evaluation of the hazards present.

Scene commanders are responsible for monitoring members using respiratory PPE and their degree of exposure or stress. When there is a change in work area conditions or when a member's degree of exposure or stress may affect respirator effectiveness, the scene commander shall reevaluate the continued effectiveness of the respirator and direct the member to leave the respirator use area when the scene commander reasonably believes (29 CFR 1910.134; OAR 437-002-0120):

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- (a) It is necessary for the member to wash his/her face and the respirator facepiece to prevent eye or skin irritation associated with respirator use.
- (b) The member detects vapor or gas breakthrough, or there is a change in breathing resistance or leakage of the facepiece.
- (c) The member needs to replace the respirator, filter, cartridge or canister.

#### 708.7.2 MEMBER RESPONSIBILITIES FOR RESPIRATORY PROTECTION

Members shall not use self-contained breathing apparatus (SCBA), full-face respirators or cartridge respirators unless they have completed training requirements for the equipment.

Members exposed to environments that are reasonably known to be harmful due to gases, smoke or vapors shall use respiratory PPE.

Members using respiratory PPE shall (29 CFR 1910.134; OAR 437-002-0120):

- (a) Ensure that they have no facial hair between the sealing surface of the facepiece and the face that could interfere with the seal or the valve function. Members also shall ensure that they have no other condition that will interfere with the face-to-facepiece seal or the valve function.
- (b) Not wear corrective glasses, goggles or other PPE that interferes with the seal of the facepiece to the face, or that has not been previously tested for use with that respiratory equipment.
- (c) Perform a user seal check per department-approved procedures recommended by the respirator manufacturer each time they put on a tight-fitting respirator.
- (d) Leave a respiratory use area whenever they detect vapor or gas breakthrough, changes in breathing resistance or leakage of their facepiece and ensure that the respirator is replaced or repaired before returning to the affected area.

#### 708.7.3 GAS MASK

Full-face air-purifying respirators, commonly referred to as gas masks, may be fitted with mechanical pre-filters or combination cartridge/filter assemblies for use in areas where gases, vapors, dusts, fumes or mists are present. Members must identify and use the correct cartridge based on the circumstances (29 CFR 1910.134; OAR 437-002-0120).

A scene commander may order the use of gas masks in situations where the use of a SCBA is not necessary. These incidents may include areas where tear gas has or will be used or where a vegetation fire is burning. Gas masks shall not be used if there is a potential for an oxygen-deficient atmosphere.

Members shall ensure their gas mask filters are replaced whenever:

- (a) They smell, taste or are irritated by a contaminant.
- (b) They experience difficulty breathing due to filter loading.
- (c) The cartridges or filters become wet.
- (d) The expiration date on the cartridges or canisters has been reached.



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##### **708.7.4 SELF-CONTAINED BREATHING APPARATUS**

Scene commanders may direct members to use SCBA when entering an atmosphere that may pose an immediate threat to life, would cause irreversible adverse health effects or would impair an individual's ability to escape from a dangerous atmosphere. These situations may include, but are not limited to:

- (a) Entering the hot zone of a hazardous materials incident.
- (b) Entering any area where contaminant levels may become unsafe without warning, or any situation where exposures cannot be identified or reasonably estimated.
- (c) Entering a smoke- or chemical-filled area.

The use of SCBA should not cease until approved by a scene commander.

##### **708.7.5 RESPIRATOR FIT TESTING**

No member shall be issued respiratory PPE until a proper fit testing has been completed by a designated member or contractor (29 CFR 1910.134; OAR 437-002-0120).

After initial testing, fit testing for respiratory PPE shall be repeated (29 CFR 1910.134; OAR 437-002-0120):

- (a) At least once every 12 months.
- (b) Whenever there are changes in the type of SCBA or facepiece used.
- (c) Whenever there are significant physical changes in the user (e.g., obvious change in body weight, scarring of the face seal area, dental changes, cosmetic surgery or any other condition that may affect the fit of the facepiece seal).

All respirator fit testing shall be conducted in negative-pressure mode.

##### **708.7.6 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE**

No member shall be issued respiratory protection that forms a complete seal around the face until (29 CFR 1910.134; OAR 437-002-0120):

- (a) The member has completed a medical evaluation that includes a medical evaluation questionnaire.
- (b) A physician or other licensed health care professional has reviewed the questionnaire.
- (c) The member has completed any physical examination recommended by the reviewing physician or health care professional.

##### **708.8 RECORDS**

The Training Coordinator is responsible for maintaining records of all:

- (a) PPE training.
- (b) Initial fit testing for respiratory protection equipment.
- (c) Annual fit testing.

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- (d) Respirator medical evaluation questionnaires and any subsequent physical examination results.

- 1. These records shall be maintained in a separate confidential medical file.

The records shall be maintained in accordance with the department records retention schedule, 29 CFR 1910.1020 and OAR 437-002-0360.

#### **708.9 TRAINING**

Members should be trained in the respiratory and other hazards to which they may be potentially exposed during routine and emergency situations.

All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove and adjust PPE; how to care for the PPE; and the limitations (29 CFR 1910.132; OAR 437-002-0120).

Members issued respiratory PPE shall attend annual training on the proper use of respiratory protection devices (29 CFR 1910.134; OAR 437-002-0120).

## **Chapter 8 - Support Services**

## Property and Evidence

### 800.1 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.

### 800.2 DEFINITIONS

**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.

**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.

**Property** - Includes all items of evidence, items taken for safekeeping, and found property.

**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

### 800.3 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).

#### 800.3.1 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) 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.
- (c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (d) Place the case number in the upper right-hand corner of the bag.
- (e) The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.
- (f) 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.

#### 800.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs (including paraphernalia as defined by ORS 475.525(2)) shall be booked separately using a separate Property Record.

The officer seizing the narcotics and dangerous drugs shall place them in the designated locker accompanied by two copies of the form for the Records Division and Detectives. The remaining copy will be detached and submitted with the case report.

#### 800.3.3 EXPLOSIVES/HAZARDOUS SUBSTANCES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Shift Supervisor. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives. In the event of military ordnance, the closest military unit shall be notified and will be responsible for removal of the device.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The property and evidence technician is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

#### 800.3.4 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.
- (b) License plates found not to be stolen or connected with a known crime should be released directly to the property and evidence technician or placed in the designated

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container for return to the Department of Motor Vehicles. 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. The property may be released directly to the property and evidence technician or placed in the bicycle storage area until a property and evidence technician can log the property.
- (d) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The Shift 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.

#### 800.3.5 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 property and evidence 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.

#### 800.3.6 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 West Linn 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 the Administrative Services/Investigations Division, which shall assign a detective 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 detective shall be responsible for the following:

- (a) Respond promptly to the medical facility to retrieve the evidence.
- (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

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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.

A SAFE Kit collected for a victim 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.

#### **800.3.7 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 Assistant to the Chief of Police/Records Supervisor for timely filing with the court (ORS 166.537).

#### **800.4 NO FIELD TESTING OF SUSPECTED CONTROLLED SUBSTANCES**

***Effective 10-26-17, the West Linn Police Department will no longer field test any suspected controlled substances.***

Given the current state of the presence and use of Fentanyl and the alarming rate of accidental exposures resulting in injury and death, the West Linn Police Department desires all personnel to avoid any unnecessary handling of possibly contaminated substances which could contain Fentanyl, or any other dangerous substance, in any form.

Use Personal Protective Equipment (PPE) if you believe you might handle an unknown substance that may contain Fentanyl. PPE kits are located in the Sgt's vehicles or in the WLPD property room. After donning the PPE, make sure to have another officer present with Naxalone, to observe your actions and act as your safety officer before you handle the suspicious substance.

#### **800.5 PACKAGING OF PROPERTY**

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and booked separately from ammunition). A flex cuff or similar device should be inserted through the chamber, barrel, or cylinder whenever possible.
- (c) Property with more than one known owner
- (d) Paraphernalia as described in ORS 475.525(2)
- (e) Fireworks and other hazardous materials
- (f) Contraband

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##### 800.5.1 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.

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.

##### 800.5.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in their possession until it is properly weighed, packaged, tagged, and placed in the secured evidence locker.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the property / evidence processing room. The booking officer shall initial and date across the evidence tape of 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. The chain of evidence shall be recorded on the back of this tag.

#### **PACKAGING OF SUSPECTED FENTANYL:**

***\*\*Packaging should not be attempted if there is loose powder, liquid, or gross contamination. If any of these conditions exist contact the proper HAZMAT team for packaging and removal\*\****

- A. If you are packaging controlled substances that you suspect might contain Fentanyl, you must:
- B. Use Personal Protective Equipment (PPE) from a PPE Kit located in both Sgt's cars or in the WLPD Evidence Room
- C. Place the suspected Fentanyl package into a zip loc bag and seal the bag (these items are located inside the PPE kit)
- D. Place "Suspected Fentanyl" label on the closed zip loc bag (label inside PPE kit)
- E. Place zip loc bag into Keepsafe Evidence Bag (located in PPE kit)
- F. Seal the Keepsafe Evidence Bag making sure the seal is completely closed across the width of the seal
- G. Complete the information on the Keepsafe Evidence Bag regarding the Chain of Custody
- H. Place "Suspected Fentanyl label on the Keepsafe Evidence Bag (located in PPE kit)



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##### **800.6 RECORDING OF PROPERTY**

The property and evidence technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the West Linn Police Department shall be noted in the property logbook.

##### **800.7 PROPERTY ROOM SECURITY**

Access to the Property Room is limited to property and evidence 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 property and evidence technician.

Annual independent audits will be completed of the Property Room function with an audit report to the Chief of Police.

###### **800.7.1 RESPONSIBILITY OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry on the evidence package 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 property and evidence technician. This request may be filled out any time after the booking of property or evidence.

###### **800.7.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

The transporting employee will check the evidence out of property, indicating the date and time on the property control card and the request for laboratory analysis.

The property and evidence technician releasing the evidence must complete the required information on the property control card and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies, and indicate the locker in which the item was placed or the employee to whom it was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records Division for filing with the case.

###### **800.7.3 STATUS OF PROPERTY**

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 noted on the property control card, stating the date, time and to whom released.

The property and evidence 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

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such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

#### 800.7.4 RELEASE OF PROPERTY

Property may be released to a verified owner at the discretion of the property and evidence technician without further authorization. A property and evidence 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 original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Division for filing with the case. If some items of property have not been released, the property card will remain with the property division. Upon release, the proper entry shall be documented in the Property Log.

All reasonable attempts 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.

#### 800.7.5 RELEASE OF EVIDENCE

Evidence may only be released with the authorization of the DA's office and the officer or detective assigned to the case.

Once a case has been adjudicated or passed the statute of limitations for prosecution, a property and evidence technician will request a disposition authorization from the DA's office and 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 an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the assigned officer or detective and 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.

#### 800.7.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the West Linn 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.

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All parties should be advised that their claims are civil and in extreme situations, legal counsel for the West Linn Police Department may wish to file an interpleader to resolve the disputed claim (ORCP 31).

#### 800.7.7 CONTROL OF NARCOTICS & DANGEROUS DRUGS

The Property Evidence Unit will be responsible for the storage, control, and destruction of all narcotics and dangerous drugs coming into the custody of this department.

#### 800.7.8 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).

#### 800.7.9 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):

- (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).

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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).

#### **800.8 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 property and evidence 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.

##### 800.8.1 DEFINITIONS

As set out in Oregon Revised Statutes 98.245, the following definition applies to the disposition of property by law enforcement agencies:

**Unclaimed Property** - personal property that was seized by the West Linn Police Department as evidence, abandoned property, found property or stolen property, and that has remained in the physical possession of the West Linn 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.

##### 800.8.2 DISPOSITION

Unclaimed property will be disposed of in accordance with the provisions of ORS 98.245. Disposal may consist of:

- (a) Destruction
- (b) Sale at public auction
- (c) Retention for public use

##### 800.8.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Division 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
- (b) The defendant's attorney
- (c) The appropriate prosecutor
- (d) Any sexual assault victim
- (e) The Administrative Services/Investigations Division supervisor

Biological evidence shall be retained for a minimum period established by law (ORS 133.707), the Property and Evidence Division supervisor or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should

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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 Administrative Services/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 Administrative Services/Investigations Division Captain should be consulted and the sexual assault victim should be notified.

The Property and Evidence Division 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).

#### **800.9 INSPECTIONS OF THE EVIDENCE ROOM**

- (a) On a monthly 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) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (c) An annual audit of evidence held by the Department shall be conducted by a Division Captain appointed by the Chief of Police who is not routinely or directly connected with evidence control.
- (d) 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.
- (e) An inventory of property will be conducted if there is reason to believe evidence has been tampered with.

## Records Section

### 802.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the West Linn Police Department Records Division. The policy addresses department file access and internal requests for case reports.

### 802.2 POLICY

It is the policy of the West Linn Police Department to maintain department records securely, professionally, and efficiently.

### 802.3 ORIGINAL FILES

Original reports shall not be removed from the Records Division without supervisory permission. Generally, original case reports shall not be removed from the Records Section. Should an original case report be needed for any reason, the requesting department member shall first obtain authorization from the Records Section. All original case reports removed from the Records Section shall be recorded on a designated report check-out log, which shall be the only authorized manner by which an original case report may be removed from the Records Section.

### 802.4 RESPONSIBILITIES

#### 802.4.1 RECORDS MANAGER

The Chief of Police shall appoint a delegate certain responsibilities to the Asst. to Chief of Police/Records Supervisor. The Asst. to Chief of Police/Records Supervisor shall be directly responsible to the Chief of Police or the authorized designee.

The responsibilities of the Asst. to Chief of Police/Records Supervisor include but are not limited to:

- (a) Overseeing the efficient and effective operation of the Records Section.
- (b) Scheduling and maintaining Records Section time records.
- (c) Supervising, training, and evaluating Records Section staff.
- (d) Maintaining and updating a Records Section procedure manual.
- (e) Ensuring compliance with established policies and procedures.
- (f) Supervising the access, use, and release of protective information (see the Protected Information Policy).
- (g) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented. Sensitive reports may include, but are not limited to:
  1. Homicides
  2. Cases involving department members or public officials
  3. Any case where restricted access is prudent

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- (h) Ensure that information is entered into the Oregon State Police Law Enforcement Data System (LEDS) from court orders received as required by Oregon law.

#### **802.4.2 RECORDS SECTION**

The responsibilities of the Records Section include but are not limited to:

- (a) Maintaining a records management system for case reports.
  - 1. The records management system should include a process for numbering, identifying, tracking, and retrieving case report
- (b) Entering case report information into the records management system.
  - 1. Modification of case reports shall only be made when authorized by a supervisor.
- (c) Providing members of the Department with access to case reports when needed for investigation or court proceedings.
- (d) Maintaining compliance with federal, state, and local regulations regarding reporting requirements for crime statistics.
- (e) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.
- (f) Identifying missing case reports and notifying the responsible members' supervisor.
- (g) Maintaining records of reports received from OSP of persons who are prohibited from possessing firearms attempting to purchase or otherwise procure them, and of the actions taken by the Department in response to those reports. Information and outcome of the actions taken by the Department shall be provided to OSP on or before Jan. 31 of each year as required by ORS 166.412 and ORS 166.436.
- (h) Maintaining compliance with the Oregon Criminal Justice Commission reporting requirements regarding the number of U visa and T visa certifications requested, granted, and denied by the Department (2019 Oregon Laws, c.472, § 2).
- (i) Participating in the National Use of Force Data Collection of the Federal Bureau of Investigation by submitting statistical data (2021 Oregon Laws, c. 625).

#### **802.5 FILE ACCESS AND SECURITY**

The security of files in the Records Section 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 area within the Records Section, and accessible only by authorized members of the Records Section. Access to case reports or files when Records Section staff is not available may be obtained through the Watch Commander. The Records Section will also maintain a secure file for case reports deemed by the Chief of Police as sensitive or otherwise requiring extraordinary access restrictions.

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#### **802.6 CONFIDENTIALITY**

Records Division staff has access to information that may be confidential or sensitive in nature. Records Division 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, protected, or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies and the Records Division procedure manual.

#### **802.7 REPORTING CRIME STATISTICS**

Uniform Crime Reporting (UCR) codes shall be assigned to all crime reports in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program. It is the responsibility of Records Division personnel to enter such information into the West Linn Police Department data system and ensure that such information is transmitted on a monthly basis to the Oregon State Police Law Enforcement Data System (LEDS) (ORS 181A.225).



## Restoration of Firearm Serial Numbers

### 804.1 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.

### 804.2 PROCEDURE

Any firearm coming into the possession of the West Linn Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

#### 804.2.1 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.

#### 804.2.2 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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##### **804.2.3 OFFICER RESPONSIBILITY**

The property and evidence 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.

##### **804.2.4 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.

##### **804.2.5 FIREARM TRACE**

After the serial number has been restored or partially restored by the criminalistics laboratory, the property and evidence 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.

##### **804.3 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

### 806.1 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.

### 806.2 POLICY

The West Linn Police Department is committed to providing public access to records in a manner that is consistent with the Oregon Public Records Law.

### 806.3 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)).

### 806.4 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.

#### 806.4.1 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).

#### 806.4.2 REQUESTS FOR RECORDS

The processing of requests for any record is subject to the following (ORS 192.324; ORS 192.329):

- (a) Requests for public records shall be made in writing.
- (b) The Department is not required to create records that do not exist.
- (c) Within five business days of receiving a written request to inspect or receive a copy of a public record, the Custodian of Records or authorized designee shall acknowledge receipt of the request or complete the response to the request.
- (d) A written acknowledgement shall advise the requester of one of the following:
  - 1. The Department is the custodian of the requested record.
  - 2. The Department is not the custodian of the requested record.
  - 3. The Department is uncertain whether the Department is the custodian of the requested record.
- (e) As soon as reasonably practicable but not later than 10 business days after acknowledgement of receipt of the request, the Custodian of Records shall:
  - 1. Complete the response to the records request or;
  - 2. Provide a written statement that the request is being processed and a reasonable estimated date by which the response should be completed based on the information currently available.
- (f) A request for records is considered complete when:
  - 1. Access or copies of the requested public records are provided to the requester or an explanation is provided to the requester where the records are publicly available.
  - 2. A written statement is sent to the requester that an exemption exists and that access is denied.
    - (a) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted, and the unrestricted material released (ORS 192.338).
      - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio/video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should

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be made in the case file to document the release and the reasons for the redacted portions.

3. A written statement is sent to the requester that the Department is not the custodian of records for the record requested.
  4. A written statement that state or federal law prohibits the Department from acknowledging whether the record exists or would result in the loss of federal benefits or other sanctions. This statement shall include the state or federal law citation relied upon by the Department.
- (g) If a fee is permitted under ORS 192.324(4) and the requester has been informed, the request is suspended until the requester has paid the fee or the Department has waived the fee. If the fee is not paid within 60 days of informing the requester of the fee or of the denial of the request for a fee waiver, the request shall be closed.
- (h) If necessary, the Custodian of Records or the authorized designee may request additional information or clarification for the purpose of expediting the response to the request. The response to the request is suspended until the requester provides the requested information, clarification, or affirmatively declines to provide the information or clarification. If the requester fails to respond within 60 days, the request shall be closed.
- (i) If the public record is maintained in a machine readable or electronic form, a copy of the public record shall be provided in the form requested, if available. If the public record is not available in the form requested, the public record shall be made available in the form in which it is maintained.

#### 806.4.3 ARREST AND CRIME REPORTS

The record of an arrest or the report of a crime 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. For purposes of this subsection, the record of an arrest or the report of a crime includes, but is not limited to:

- a) The arrested person's name, age, residence, employment, marital status and similar biographical information.
- b) The offense with which the person is charged.
- c) The conditions of release pursuant to Oregon Revised Statutes 135.230 to 135.290.
- d) The identity of and biographical information concerning both complaining party and victim.
- e) The identity of the investigating and arresting agency and the length of the investigation.
- f) The circumstances of 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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##### 806.4.4 INVESTIGATORY INFORMATION

Except as specified in the previous section, Investigatory information compiled for criminal law purposes is exempt from disclosure. The contents of police reports or any other investigatory information shall not be released without the authorization of the detective supervisor in charge of the investigation.

##### 806.4.5 JUVENILE RECORDS

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); ORS419A.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 wherever 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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#### **806.5 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.

#### **806.6 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.



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##### **806.7 RELEASED RECORDS TO BE MARKED**

Each record released through the records management system will track the employee's name releasing the record and whom the records were released to. If it is an older record that is not in the records management system, the employee releasing the record will make note on the file they released the report and to whom they released the report to with the date of release.

Each audio/video recording released through the evidence management system will track the property and evidence technician's name, date, and whom they released the audio/video recording to.

##### **806.8 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).

##### **806.9 SECURITY BREACHES**

In the event of an unauthorized acquisition of personal information, the Chief of Police or the authorized designee shall ensure that an investigation into the breach is made and applicable steps pursuant to ORS 646A.602 et seq. are taken.

Required notice shall be made as follows (ORS 646A.604):

- (a) Notice shall be made to any individual whose private or confidential data was or is reasonably believed to have been breached. Notice shall be provided in the most expeditious manner possible, without unreasonable delay, but not later than 45 days after becoming aware of the breach, unless the notice impedes a criminal investigation.
  1. The notice shall be made as set forth in ORS 646A.604 and include a general description of the breach of security; the approximate date of the breach; the type of information that was compromised; the contact information for the person providing the notice; the contact information for national consumer reporting agencies; and that any suspected identity theft should be reported to law enforcement, the Attorney General, and the Federal Trade Commission.
- (b) When notice is delayed because it will impede an active criminal investigation, the member in charge of the investigation must document the reason why a delay in notification is necessary to the investigation.
- (c) Provide substitute notice if notification would cost more than \$250,000 or if there were more than 350,000 individuals whose personal information was breached.
- (d) If notification is required to be made to more than 1,000 individuals, the West Linn Police Department should also notify consumer reporting agencies.
- (e) Provide notice to the Oregon Attorney General if the breach involves the personal information of more than 250 people along with a copy of any notice sent to individuals whose personal information was affected.

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- (f) Document when a breach of security is unlikely to cause any harm and does not require notification. In these cases, the documentation shall be maintained for at least five years.

## Protected Information

### 808.1 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 West Linn 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.

#### 808.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the West Linn Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

### 808.2 POLICY

Members of the West Linn Police Department will adhere to all applicable laws, orders, regulations, user agreements and training related to the access, use, dissemination and release of protected information.

### 808.3 AUTHORITY

Authority for the release or obtaining of Criminal History information is established in ORS 181.533 through ORS 181.560.

### 808.4 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.

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- (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.

#### **808.5 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, West Linn 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.

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.

##### **808.5.1 ACCESS TO OREGON STATE POLICE OFFENDER INFORMATION**

Access to Oregon State Police (OSP) criminal offender information may be granted when the information is to be used for the administration of criminal justice, 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 (OAR 257-010-0025).

#### **808.6 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 Assistant to the Chief of Police/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 Division 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

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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.

#### **808.6.1 REVIEW OF CRIMINAL OFFENDER RECORD**

Individuals requesting to review their own Oregon criminal offender information shall be referred to OSP, Identification Services Section (OAR 257-010-0035).

An individual may review his/her local record on file with the Department under the provisions of ORS 192.501(3), and after complying with all legal requirements.

This department will not release information originated by any other agency (ORS 192.410 through ORS 192.505). Individuals requesting this information shall be referred to the originating agency.

#### **808.7 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.
- (d) Tracking, documenting, and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

#### **808.7.1 MEMBER RESPONSIBILITIES**

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

#### **808.8 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.

#### **808.8.1 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

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a terminal to access LEDS must be re-certified by the Department every two years (OAR 257-015-0050).

## Computers and Digital Evidence

### 810.1 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.

### 810.2 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 and Evidence Division. 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.

#### **810.2.1 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.

#### **810.2.2 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.

#### **810.3 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.

#### **810.4 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 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.

#### **810.5 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.

##### **810.5.1 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.

##### **810.5.2 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 and Evidence Division as soon as practical for submission into evidence.
- (b) All pictures and photographs taken on-duty are to be considered digital evidence and shall be entered into evidence in accordance with departmental procedures.
- (c) Use of low resolution (5 megapixel and below) police department issued cell phones for photographing while in the field shall be limited to those circumstances where the required image would otherwise be missed if the officer took the time to obtain a higher resolution image using another device.

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- (d) As soon as practical following the collection of evidence, one of the following shall be completed depending upon the digital media used. Memory Card
  1. Remove the memory card from the digital camera and place the card in a paper envelope.
  2. Write your name and the related case number on the outside of the envelope before placing in a secure property locker.
  3. Complete a Property in Custody (PIC) form to be submitted at the same time as the card. Media Transfer
    - (a) Photos transferred from police department issued cell phones to department authorized emails are to be completed by downloading or uploading them in the actual size.
    - (b) The images may be transmitted wirelessly directly to the secure evidence photo email or by connecting the cell phone to the computer and saving them on the "R" drive in the "Evidence Photos" file folder. The saved images are to be transferred to the designated secure evidence email specifically for evidence media. Include the case number in the subject line of the email.
    - (c) A PIC form shall be completed the same day the media images or recordings are transferred to the secure web address.
    - (d) The number of digital images transferred to the secure web address is to be noted on the PIC.
    - (e) Photos shall not be deleted from cell phones until a response email from the property and evidence technician is received verifying all downloading and transfers are successfully completed.
- (e) The property and evidence technician shall make a copy of the memory card photos or transfer the images received through the secure email to the storage media for evidence.
- (f) After confirming the images are properly transferred to the storage media, the evidence technician will erase the memory card for re-use and delete the transferred images in the secure email. The storage media will be marked as the original.

#### 810.5.3 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.

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- (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.

#### 810.5.4 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

### 816.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals and responding to calls for service that involve animals.

### 816.2 POLICY

It is the policy of the West Linn Police Department to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

### 816.3 ANIMAL CONTROL RESPONSIBILITIES

Animal control services are generally the primary responsibility of Animal Control and include the following:

- (a) Animal-related matters during periods when Animal Control is available.
- (b) Ongoing or persistent animal nuisance complaints. Such complaints may be scheduled, if reasonable, for handling during periods that Animal Control is available for investigation and resolution.
- (c) Follow-up on animal-related calls, such as locating owners of injured animals.

### 816.4 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation and determine appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding personnel generally should not attempt to capture and pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

- (a) There is a threat to public safety.
- (b) An animal has bitten someone. Members should take measures to confine the animal and prevent further injury.
- (c) An animal is creating a traffic hazard.
- (d) An animal is seriously injured.
- (e) The owner/handler has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.
  - 1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.

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2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

#### **816.5 DECEASED ANIMALS**

When a member becomes aware of a deceased animal, all reasonable attempts should be made to preliminarily determine if the death of the animal is related to criminal activity.

#### **816.6 INJURED ANIMALS**

When a member becomes aware of an injured domesticated animal, all reasonable attempts shall be made to contact the owner or responsible handler. If an owner or responsible handler cannot be located, the animal should be taken to a designated animal care facility.

##### **816.6.1 INJURED WILDLIFE**

Injured wildlife should be referred to the Oregon Department of Fish and Wildlife or Oregon State Police, Fish and Wildlife Division.

#### **816.7 ANIMAL CRUELTY COMPLAINTS**

Laws relating to the cruelty to animals should be enforced, including but not limited to those cited in ORS 133.379 (animal abuse, animal neglect).

- (a) An investigation should be conducted on all reports of animal cruelty.
- (b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty.
- (c) Members who lawfully seize an animal shall comply with the notice requirements of ORS 167.345.

#### **816.8 ANIMAL BITE REPORTS**

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

#### **816.9 STRAY DOGS**

If the dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate shelter/holding pen.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

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##### **816.10 DANGEROUS ANIMALS**

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Shift Supervisor will be contacted to determine available resources, including requesting the assistance of animal control services from an allied agency.

##### **816.11 PUBLIC NUISANCE CALLS RELATING TO ANIMALS**

Members should diligently address calls related to nuisance animals (e.g., barking dogs), because such calls may involve significant quality-of-life issues.

##### **816.12 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.

##### **816.13 DESTRUCTION OF ANIMALS**

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed. A badly injured animal shall only be euthanized with the approval of a supervisor.

## **Chapter 9 - Custody**

## Custodial Searches

### 900.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the West Linn Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of trace evidence from an individual in custody.

#### 900.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody Search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

**Strip search** - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

### 900.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

### 900.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

### 900.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the West Linn Police Department facilities. Except in exigent circumstances, the search should be conducted by



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a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

#### 900.4.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's West Linn Police Department identification number and information regarding how and when the property may be released.

#### 900.4.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. 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. All envelopes should clearly indicate the contents on the front. The department member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

#### 900.4.3 RECEIPT FOR PROPERTY OR MONEY

The officer or other member charged with such inventories shall ensure that the individual receives a receipt for any money or other property received and should have the individual countersign both the original and duplicate receipt. Members will otherwise comply with ORS 133.455 if the individual is unable to sign.

#### **900.5 PHYSICAL BODY CAVITY SEARCH**

Physical body cavity searches shall be subject to the following:

- (a) No individual shall be subjected to a physical body cavity search without written approval of the Shift Supervisor and only upon a search warrant or approval of legal

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counsel. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

- (b) Only a physician may conduct a physical body cavity search.
- (c) Except for the physician conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
- (e) All such searches shall be documented, including:
  - 1. The facts that led to the decision to perform a physical body cavity search of the individual.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The Shift Supervisor's approval.
  - 4. A copy of the search warrant.
  - 5. The time, date and location of the search.
  - 6. The medical personnel present.
  - 7. The names, sex and roles of any department members present.
  - 8. Any contraband or weapons discovered by the search.
- (f) A copy of the written authorization shall be retained and made available to the individual who was searched or other authorized representative upon request.

#### **900.6 TRAINING**

The Training Coordinator shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

#### **900.7 CLOSED CONTAINER SEARCHES**

Closed containers will not be opened for inventory purposes except for the following, which shall be opened for inventory: wallets, purses, coin purses, fanny packs, personal organizers, briefcases or other closed containers designed for carrying money or small valuables, or closed containers which are designed for hazardous materials.

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Other closed containers shall be opened and inventoried if the owner acknowledges they contain cash in excess of \$10, valuables or a hazardous material.

# TEMPORARY CUSTODY OF ADULTS

## 902.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the West Linn Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

**Safety checks** - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

**Temporary custody** - The time period an adult is in custody at the West Linn Police Department prior to being released or transported to a housing or other type of facility.

## 902.2 POLICY

The West Linn Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

## 902.3 GENERAL CRITERIA AND SUPERVISION

Absent emergency or extenuating circumstances, no adult should be in temporary custody for longer than four hours (ORS 169.005). An officer must be accompanied by at least one other officer upon entry into the temporary holding area until the custody is securely restrained to either the Intoxilyzer area bench or inside a secured holding cell.

### 902.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the West Linn 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).

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(b) Any individual who has a medical condition, including pregnancy, which 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 Mental Illness 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 Mental Illness Commitments 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.

(j) Foreign nationals requiring a mandatory Consular notification.

#### 902.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could reasonably conflict with his/her supervision (ORS 169.078). Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability.

At least one female officer should be present when a female adult is in temporary custody if the custodial process is not video recorded. In the event the custodial process is not recorded or there is no female member readily available, the female in custody should be transported to another facility or released pursuant to another lawful process.

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present.

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

#### 902.3.3 ENTRY RESTRICTIONS

Entry into any location where a person is held in custody shall be restricted to:

(a) Authorized members entering for official business purposes

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(b) Emergency medical personnel when necessary

(c) Any other person authorized by a supervisor

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

#### **902.4 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 ask the individual about 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 care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the County jail or the appropriate mental health facility.

The officer should promptly notify the supervisor of any condition that may warrant immediate medical attention or other appropriate action. The supervisor shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

##### **902.4.1 SCREENING AND PLACEMENT**

The officer responsible for an individual in custody shall:

(a) Advise the supervisor of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).

(b) Individuals in custody shall only be placed in a temporary holding cell by themselves. Multiple individuals in custody may not occupy the same holding cell at the same time.

#### **902.5 SAFETY, HEALTH AND OTHER PROVISIONS**

##### **902.5.1 TEMPORARY CUSTODY LOGS**

Any time an individual is in temporary custody at the West Linn 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 and departure from the Department

(c) Any charges of which the individual is in temporary custody

(d) Associated case number

(e) Officer's name and DPSST number

Any medical emergencies or otherwise unusual or significant circumstances should be recorded and documented in an applicable report.

The Patrol Sergeant or Officer-In-Charge should make periodic checks to ensure all log entries and safety and security checks are made on time.

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##### 902.5.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or proceeding anyone in temporary custody shall ensure:

- (a) Safety checks are performed.
- (b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.
  1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
  2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins (ORS 1169.078).
- (d) There is reasonable access to a drinking fountain or water.
- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) There is privacy during attorney visits.
- (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (h) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (i) Adequate furnishings are available, including suitable chairs or benches (ORS 169.078).

##### 902.5.3 MEDICAL CARE

First-Aid equipment and basic medical supplies should be available to department members. At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor shall meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the West Linn Police Department. They should be released or transferred to another facility as appropriate.

##### 902.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. 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 may be removed from the individual unless its removal would be injurious to his/her health or safety.

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Whenever a prosthetic or orthopedic appliance is removed, the Patrol Sergeant or Officer-in-Charge shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that the risk no longer exists.

##### **902.5.5 TELEPHONE CALLS**

(a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.

1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult.

(b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child care or dependent adult care, or transportation upon release.

1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.

(c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded.

##### **902.5.6 RELIGIOUS ACCOMMODATION**

Subject to available resources safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated. Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings should be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

##### **902.6 USE OF RESTRAINT DEVICES**

Individuals in custody shall be handcuffed in accordance with the Handcuffing and Restraints Policy. Individuals in custody will remain handcuffed for the duration of their temporary custody. All handcuff transitions from the front or back of the body to the opposite side of the body shall only be performed in the presence of two or more officers.

All individuals in custody shall be restrained with handcuffs in the front of their body and those handcuffs attached to the secure ring on the bench. The exception to this would be when a custody is required to perform investigative tests upon the direction of an officer or when the custody is using the restroom facility.



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##### 902.6.1 PREGNANT ADULTS

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

##### **902.7 PERSONAL PROPERTY**

The personal property of an individual in temporary custody should be removed from a person anytime that person is being held inside a temporary holding cell. Any property seized for any reason shall be inventoried and the subject should sign a property receipt. Other property will remain in a bin outside the holding cell to be released to or transported with a subject being transported after released from the temporary holding cell.

Personal property includes shoes or shoelaces, belts and all personal effects located in the subject's possession.

The supervisor shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The supervisor shall attempt to prove or disprove the claim.

##### **902.8 HOLDING CELLS**

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

- (a) The individual shall be searched (see the Custodial Searches Policy), and in addition, anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces and jackets shall be removed.
- (b) The individual shall constantly be monitored by a video system during the entire custody.
- (c) The individual shall have constant auditory access to department members.
- (d) Safety checks by department members shall occur approximately 15 minutes.
  1. The safety check should involve questioning the individual as to his/her well-being.
  2. Individuals who are sleeping or apparently sleeping should be awakened.
  3. Requests or concerns of the individual should be attended to if appropriate.

##### **902.9 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 West Linn Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Supervisor, Captain, and Chief of Police

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- (c) Notification of the Clackamas County Major Crimes Team
- (d) Notification of the District Attorney/City Prosecutor
- (e) Notification of the Medical Examiner
- (f) Evidence preservation

#### **902.10 RELEASE AND/OR TRANSFER**

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband or dangerous weapons, have been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (.g., copies of booking forms, medical records, an itemized list of his/her seized property, warrant copies).
- (f) The individual is not permitted in any non-public areas of the West Linn Police Department unless escorted by a member of the Department.
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation is transported with the individual if he/she is being sent to another facility.
  1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.
- (i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.

#### **902.11 ASSIGNED ADMINISTRATOR**

The Operations Captain will ensure any reasonably necessary supplemental procedures are in place to address the following issues (ORS 169.078):

- (a) General security and equipment

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- (b) Key control
- (c) Sanitation and maintenance of holding cells
- (d) Emergency medical treatment
- (e) Escapes
- (f) Evacuation plans
- (g) Fire- and life-safety
- (h) Disaster plans
- (i) Building and safety code compliance

#### **902.12 TRAINING**

Department members should be trained and familiar with this policy and any supplemental procedures.

## Temporary Custody of Adults

### 902.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the West Linn Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

#### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

**Safety checks** - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

**Temporary custody** - The time period an adult is in custody at the West Linn Police Department prior to being released or transported to a housing or other type of facility.

### 902.2 POLICY

The West Linn Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

### 902.3 GENERAL CRITERIA AND SUPERVISION

Absent emergency or extenuating circumstances, no adult should be in temporary custody for longer than four hours (ORS 169.005). An officer must be accompanied by at least one other officer upon entry into the temporary holding area until the custody is securely restrained to either the Intoxilyzer area bench or inside a secure holding cell.

#### 902.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the West Linn 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).

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- (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 Civil Commitments 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.
- (j) Foreign nationals requiring a mandatory Consular notification.

#### 902.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision (ORS 169.078). Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability.

At least one female department member should be present when a female adult is in temporary custody, if practicable.

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present.

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

#### 902.3.3 ENTRY RESTRICTIONS

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Shift Supervisor.

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When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

#### **902.4 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 them for obvious signs or indications of suicidal intent.

The officer should ask the individual about 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 Shift Supervisor of any conditions that may warrant immediate medical attention or other appropriate action. The Shift Supervisor shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

##### **902.4.1 SCREENING AND PLACEMENT**

The officer responsible for an individual in custody shall:

- (a) Advise the Shift Supervisor of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).
- (b) Individuals in custody shall only be placed in a temporary holding cell by themselves. Multiple individuals in custody may not occupy the same holding cell at the same time.

#### **902.5 SAFETY, HEALTH, AND OTHER PROVISIONS**

##### **902.5.1 TEMPORARY CUSTODY LOGS**

Any time an individual is in temporary custody at the West Linn 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 and departure at the Department.
- (c) Associated case number
- (d) Officer name and DPSST number
- (e) Date and time of release from the West Linn Police Department.

Any medical emergencies or otherwise unusual or significant circumstances should be recorded and documented in an applicable report.

The Shift Supervisor should make periodic checks to ensure all log entries and safety and security checks are made on time.

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##### 902.5.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

- (a) Safety checks and significant incidents/activities are noted on the log.
- (b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.
  - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
  - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins (ORS 169.078).
- (d) There is reasonable access to a drinking fountain or water.
- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) There is privacy during attorney visits.
- (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (h) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (i) Adequate furnishings are available, including suitable chairs or benches (ORS 169.078).

##### 902.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members. At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor shall meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the West Linn Police Department. They should be released or transferred to another facility as appropriate.

##### 902.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. 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 may be removed from the individual unless its removal would be injurious to his/her health or safety.

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Whenever a prosthetic or orthopedic appliance is removed, the Shift Supervisor shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists.

#### 902.5.5 TELEPHONE CALLS

Every individual in temporary custody should be allowed to make a reasonable number of completed telephone calls as soon as possible after arrival.

- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.
  - (a) The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult.
- (b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
  - 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.
- (c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded.

#### 902.5.6 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated. Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

#### 902.5.7 NONDISCRIMINATION

The West Linn 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 (ORS 181A.823).



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#### **902.6 USE OF RESTRAINT DEVICES**

Individuals in custody shall be handcuffed in accordance with the Handcuffing and Restraints Policy. All handcuff transitions from the front or back of the body to the opposite side of the body shall only be performed in the presence of two or more officers.

While outside a secure holding cell, all individuals in custody shall be restrained with handcuffs in the front of their body and those handcuffs attached to the secure ring on the bench. The exception would be when a custody is required to perform investigative tests upon the direction of an officer or when the custody is using the restroom facility. Unless an individual presents a heightened risk, handcuffs should generally be removed when the individual is in a secure cell.

##### **902.6.1 PREGNANT ADULTS**

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

#### **902.7 PERSONAL PROPERTY**

The personal property of an individual in temporary custody should be removed anytime that person is being held inside a temporary holding cell. Any property seized to be held for safekeeping shall be inventoried and the subject should sign a property receipt. Other property will remain in the bin outside the temporary holding cell to be released to or transported with the subject upon release from the temporary holding cell.

Personal property includes shoes and shoelaces, belts and all other personal effects located in the subject's possession.

The Shift Supervisor shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Shift Supervisor shall attempt to prove or disprove the claim.

#### **902.8 HOLDING CELLS**

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

- (a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces and jackets, shall be removed.
- (b) The individual shall constantly be monitored by an audio/video system during the entire custody.
- (c) The individual shall have constant auditory access to department members.
- (d) The individual's initial placement into and removal from a locked enclosure shall be logged.

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- (e) Safety checks by department members shall occur no less than every 15 minutes.
  - (a) Safety checks should be at varying times.
  - (b) The safety check should involve questioning the individual as to his/her well-being.
  - (c) Individuals who are sleeping or apparently sleeping should be awakened.
  - (d) Requests or concerns of the individual should be attended to if appropriate.

#### **902.9 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 West Linn Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate.
- (b) Immediate notification of the Shift Supervisor, Chief of Police and Captain.
- (c) Notification of the Clackamas County Major Crimes Team.
- (d) Notification of the District Attorney/City Prosecutor.
- (e) Notification of the [Medical Examiner/JOP].
- (f) Evidence preservation.

#### **902.10 RELEASE AND/OR TRANSFER**

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the West Linn Police Department unless escorted by a member of the Department.
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.
  - 1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.

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- (h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.
- (i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.
- (j) If a custody escapes from custody during a transport, the transporting officer will immediately notify the local jurisdiction if possible and shall immediately notify dispatch of the event. Generally, the officer will not attempt to recapture the escapee without sufficient assistance to provide adequate safety for all persons involved in the recapture.

#### **902.11 ASSIGNED ADMINISTRATOR**

The Operations Captain will ensure any reasonably necessary supplemental procedures are in place to address the following issues (ORS 169.078):

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance
- (d) Emergency medical treatment
- (e) Escapes
- (f) Evacuation plans
- (g) Fire- and life-safety
- (h) Disaster plans
- (i) Building and safety code compliance

#### **902.12 TRAINING**

Department members should be trained and familiar with this policy and any supplemental procedures.

## **Chapter 10 - Personnel**

## Recruitment and Selection

### 1000.1 PURPOSE AND SCOPE

It is the policy of the West Linn Police Department to provide equal opportunities for applicants and its employees regardless of race, sexual orientation, age, pregnancy, religion, creed, color, national origin, ancestry, physical or mental handicap, marital status, veteran status, or sex, and shall not show partiality or grant any special favors to any applicant, employee or group of employees. The rules governing employment practices for this department are maintained by the West Linn Human Resources Department.

### 1000.2 POLICY

In accordance with applicable federal, state and local law, the West Linn Police Department provides equal opportunities for applicants and employees, regardless of race, gender expression, age, pregnancy, religion, creed, color, national origin, ancestry, physical or mental handicap, genetic information, veteran status, marital status, sex 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

All persons hired by this department must meet the applicable minimum standards established by law, in addition to any standards established by this department. The Administrative/ Investigations Division Commander shall ensure that:

- (a) Persons hired as law enforcement officers by this department meet the minimum employment standards and requirements set by the Oregon Department of Public Safety Standards and Training (DPSST) (OAR 259-008-0010 and OAR 259-008-0070).
- (b) Persons hired for any other position meet the requirements established by this department.
- (c) Personal history investigations for sworn and non-sworn positions are conducted and retained appropriately and that all applicants are interviewed personally, prior to employment, by the Chief of Police or the authorized designee (OAR 259-008-0015).

#### 1000.2.2 SELECTION PROCESS

- (a) The selection process for sworn candidates for the Department may include the following components:
  1. A written test demonstrating a 12th grade reading and writing level in the English language. (Generally not required for Certified Lateral )

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2. Supplemental questionnaire.
  3. Oral interview board.
  4. Physical Ability Test (ORPAT).
  5. A Comprehensive Background .
  6. Command Interview with Chief and Captains.
  7. Psychological Exam.
  8. Physical Exam – Minimum requirements mandated by Oregon Department of Public Safety Standards & Training (Oregon Administrative Rules 259-008-0010(8)).
  9. Drug screen.
  10. Physical and psychological examinations will be conducted as the final step in the selection process, after a conditional job offer is communicated.
- (b) The selection process for positions for the Department may include the following components:
1. Skill testing demonstrating proficiency in written and oral communications, and various tasks associated with the specific job applied for.
  2. Supplemental questionnaire.
  3. Oral interview board.
  4. A Comprehensive Background .

#### **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 West Linn Human Resources Department 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 West Linn 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 drive safely

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- (c) The ability to control a motor vehicle at high speeds
- (d) The ability to operate a motor vehicle in all types of weather conditions
- (e) 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.

#### 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

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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, 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



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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
- (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

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- (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:
  - 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 may 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 ten years prior to application for employment
  - 2. Any adult use or possession of marijuana within six months prior to application for employment
  - 3. Any other illegal adult use or possession of a drug not mentioned above shall be considered under the West Linn Police Departments "Use of Controlled & Dangerous Substances for Sworn and Non-Sworn Personnel" guidelines.
  - 4. Any illegal adult use or possession of a drug while employed in any law enforcement capacity, military police, or national security capacity.
  - 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

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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 six months ago or cocaine use longer than six years ago.)
  3. Any illegal or unauthorized use of prescription medications not prescribed to the individual but for a purpose consistent with the drugs intended uses (e.g. the use of a roommates prescribed Adderall to improve focus while studying for a college exam).

## 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 West Linn 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*

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##### **1002.4 FULL TIME PROBATIONARY PERSONNEL**

Non-sworn personnel are on probation for six months before being eligible for certification as permanent employees.

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 field training program portion of 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 April and October shift changes. For those assignments that do not require a shift change and/or change in direct supervision, one single evaluation shall be completed each April.

**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.

##### **1002.5.1 RATING DEFINITIONS**

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

**Outstanding** - Is actual performance well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

**Exceeds Standards** - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected, but is not of such rare nature to warrant outstanding.

**Meets Standards** - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

**Needs Improvement** - A level of performance that while competent, is inconsistent in satisfactory quality, safety, or effectiveness.

**Unsatisfactory** - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

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Space for written comments is provided at the end of each section in the evaluation. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked needs improvement, unsatisfactory or outstanding shall be substantiated in the rater comments section.

#### **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 (Division Captain). The Division Captain shall review the evaluation for fairness, impartiality, uniformity, and consistency. The Division Captain shall evaluate the supervisor on the quality of ratings given.

#### **1002.8 EVALUATION DISTRIBUTION**

A copy of the performance evaluation shall be maintained in the employee's Guardian Tracking file system for the tenure of the employee's employment. A copy will be given to the employee and the original performance evaluation will be forwarded to City Human Resources Department.

## Promotional and Transfer Policy

### 1004.1 PURPOSE AND SCOPE

The purpose of this policy is to establish required and desirable qualifications for promotion or transfer within the ranks of the West Linn Police Department and the processes to be followed.

#### 1004.1.1 DEFINITIONS

**Promotion** - Advancement as a result of selection, based on a competitive process, for a regular position identified by a separate job description and a separate and higher pay range than the position previously held.

**Transfer** - Assignment to a different shift, work assignment or duty station. Although the duration of the assignment may vary, it generally considered to be temporary and subject to change at the discretion of the Chief of Police.

#### 1004.1.2 SWORN NON-SUPERVISORY ASSIGNMENTS

The following positions are considered transfers and/or additional duty assignments in addition to their normal duties and are not considered promotions:

- (a) Clackamas County SWAT Team
- (b) Detective
- (c) Motor Officer
- (d) CRASH Accident Investigator
- (e) Field Training Officer
- (f) Defensive Tactics Instructor
- (g) Firearms Instructor
- (h) TriMet Transit Police Division
- (i) Rangemaster
- (j) Clackamas County Interagency Task Force
- (k) Clackamas County Major Crimes Team
- (l) Peer Support Team
- (m) School Resource Officer

The above list does not necessarily reflect every position available to members of this department and assignment to, and filling of a position is at the discretion of the Chief of Police.

### 1004.2 GENERAL REQUIREMENTS

The following considerations will be used in evaluating employees for promotion or transfer to a specialty assignment:

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- (a) Present a professional, neat appearance.
- (b) Maintain a physical condition which aids in their performance.
- (c) Demonstrate the following traits:
  - 1. Emotional stability and maturity.
  - 2. Stress tolerance
  - 3. Sound judgment and decision-making.
  - 4. Personal integrity and ethical conduct.
  - 5. Leadership
  - 6. Initiative
  - 7. Adaptability and flexibility.
  - 8. Ability to conform to organizational goals and objectives in a positive manner.

#### **1004.2.1 DESIRABLE QUALIFICATIONS**

The following qualifications apply to consideration for assignment to additional duties, transfer, and/or promotion.

- (a) Three years' experience
- (b) Off probation
- (c) Has shown an expressed interest in the position applied for
- (d) Education, training and demonstrated abilities in related areas; such as, enforcement activities, investigative techniques, report writing, public relations, etc.
- (e) Complete any training required by the Department of Public Safety Standards and Training or law

#### **1004.3 SELECTION PROCESS**

The following criteria apply to transfers or additional assignments.

- (a) Administrative evaluation as determined by the Chief of Police. This shall include a review of supervisor recommendations. Each supervisor who has supervised or otherwise been involved with the candidate will submit these recommendations.
- (b) The supervisor recommendations will be submitted to the Division Commander for whom the candidate will work. The Division Commander will schedule interviews with each candidate.
- (c) Based on supervisor recommendations and those of the Division Commander after the interview, the Division Commander will submit his/her recommendation(s) to the Chief of Police.
- (d) Appointment by the Chief of Police



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#### *Promotional and Transfer Policy*

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The policy and procedures for all positions may be waived for temporary assignments, emergency situations or for training.

#### **1004.4 PROMOTIONAL SELECTION PROCESS**

Specifications for promotional opportunities are on file with the West Linn Department of Human Resources. Promotions will be determined in accordance with the following procedures:

- (a) Administrative evaluation as determined by the Chief of Police. This shall include a review of supervisor recommendations. Each supervisor who has supervised or otherwise been involved with the candidate within the past 12 months will submit these recommendations.
- (b) The selection process may include but is not limited to any of the following components depending on the position being filled, the job requirements and the skills needing to be evaluated:
  - 1. Written exam
  - 2. Oral Board
  - 3. Specific skill testing
  - 4. Background Investigation
  - 5. 360 Degree Review
  - 6. Psychological evaluation
  - 7. Assessment Center
  - 8. Interview with the Chief of Police

The Chief of Police will make the final selection.

## Complaint and Grievance Resolution

### 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. Our Department's philosophy is to promote a free verbal communication between employees and supervisors.

#### 1006.1.1 GRIEVANCE DEFINED

**Grievance-** A grievance, for the purpose of this procedure, is defined as a dispute regarding the meaning of or interpretation of a particular clause, or regarding an alleged violation of the Collective Bargaining Agreement

**Complaint-** For the purposes of this procedure a complaint 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 person(s).

Specifically outside the category of grievance are complaints related to alleged acts of sexual, racial, ethnic or other forms of unlawful harassment, as well as complaints related to allegations of discrimination on the basis of sex, race, religion, ethnic background and other lawfully protected status or activity are subject to the complaint options set forth in Policy Manual § 328; and personnel complaints consisting of 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 set forth in Policy Manual § 1020.

### 1006.2 PROCEDURE

If an employee believes that he or she has a grievance or complaint as defined above, then that employee shall observe the following procedure:

The procedures outlined in the respective Collective Bargaining Agreement; Article 10 "Grievance and Arbitration Procedures" if the employee is in a represented classification, and the alleged violation is a violation of the respective CBA.

The procedures outlined in the West Linn Personnel Policy #6 for non-represented employees of the West Linn Police Department and those violations that are not violations of any CBA.

### 1006.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process.

Employee Representation will follow the procedures outlined in the Collective Bargaining Agreement.

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### **1006.4 GRIEVANCE RECORDS**

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded through the Chief of Police or his designee to the Human Resources Department for inclusion into a secure file for all written grievances.

# Reporting of Arrests, Convictions, and Court Orders

## 1010.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that members must follow when certain arrests, convictions, and court orders restrict their ability to perform the official duties and responsibilities of the West Linn Police Department. This policy will also describe the notification requirements and procedures that certain retired officers must follow when an arrest, conviction, or court order disqualifies them from possessing a firearm.

## 1010.2 POLICY

The West Linn Police Department requires disclosure of member arrests, convictions, and certain court orders to maintain the high standards, ethics, and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the Department.

## 1010.3 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 166.255; ORS 166.270; ORS 166.527).

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.

## 1010.4 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

OAR 259-008-0300 prohibits any person convicted of a felony and certain other crimes 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.

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, and shall be reported as provided in this policy.

## 1010.5 REPORTING

All members and all retired officers with identification cards 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 detention, arrest, charge, or conviction in any state or foreign country, regardless of whether the matter was dropped or rejected, is currently pending, or is on appeal, and regardless of the penalty or sentence, if any.

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All members and all retired officers with identification cards issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing if they become the subject of a domestic violence restraining order or any court order that prevents the member or retired officer from possessing a firearm or requires suspension or revocation of applicable DPSST certification.

Any member whose criminal arrest, conviction, or court order restricts or prohibits that member from fully and properly performing his/her duties, including carrying a firearm, may be disciplined. This includes but is not limited to being placed on administrative leave, reassignment, and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member, on his/her own time and at his/her own expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline, up to and including termination.

Retired officers may have their identification cards rescinded or modified, as may be appropriate (see the Retiree Concealed Firearms Policy).

#### **1010.6 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 West Linn 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.

#### **1010.7 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; OAR 259-008-0011):

- (a) The date of the arrest or citation
- (b) The location of the arrest or citation

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- (c) The reason for the arrest or citation
- (d) The arresting or citing agency

## Drug and Alcohol-Free Workplace

### 1012.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

### 1012.2 POLICY

It is the policy of this department to provide a drug and alcohol-free workplace for all members.

### 1012.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Shift Supervisor or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

#### 1012.3.1 COMPLIANCE WITH STATE AND FEDERAL LAW

In addition to the above, members of the Department must comply at all times with all applicable federal and state laws and regulations regarding the use of alcohol and controlled substances. Marijuana is a Schedule I drug under the Federal Controlled Substances Act, which means that it has no acceptable medical use, and its possession for any purpose is illegal under federal law. Use of marijuana is prohibited under this policy even if the member has a prescription under state law. Any member who is using marijuana under a prescription for a disability must contact the Chief of Police or Human Resources prior to working with any amount of marijuana in his/her system. Human Resources, in consultation with the Chief of Police, will discuss with the member whether there is a reasonable accommodation that would enable the member to comply with this policy.

### 1012.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

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Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

##### **1012.4.1 FAILURE TO COOPERATE**

Failing to fully cooperate with any aspect of the Department's enforcement of this policy, including but not limited to, refusing to promptly submit to required testing; giving false, diluted, or altered urine samples or assisting another member of the Department in doing so, or failure to comply with rehabilitation conditions imposed by the Department or rehabilitation counselors is prohibited.

##### **1012.4.2 FAILING TO REPORT ARRESTS AND CONVICTIONS**

Failure to promptly report a conviction, arrest or plea-bargain for an alcohol or drug related offense is prohibited. All drug and alcohol related convictions, arrests and plea-bargain arrangements must be reported to a Captain or the Chief of Police promptly at the first opportunity.

##### **1012.4.3 USE OF MEDICATIONS**

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair the member's abilities, without a written release from the member's physician.

##### **1012.5 WORK RESTRICTIONS**

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

##### **1012.6 SAFEGUARDS**

The Department recognizes the sensitivity of enforcing this policy, and therefore will utilize qualified supervisory personnel and make arrangements with a certified laboratory to administer testing under this Policy. All positive test results will be confirmed using the Gas Chromatography €“ Mass Spectrometry (GC-MS) testing method, or another confirmatory testing method approved by law. Test results and other information concerning drug and alcohol investigations will be treated confidentially and released only on a need-to-know basis or as required by law.



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##### **1012.7 EMPLOYEE ASSISTANCE PROGRAM**

A member of the Department who believes he or she may have a substance abuse problem is encouraged to discuss the problem the Chief of Police or Human Resources. Although the Department will generally support treatment efforts for a member with a substance abuse problem who voluntarily seeks assistance, this option must be pursued before the substance abuse results in performance or attendance problems or a violation of this policy, and before being directed to submit to testing under this Policy.

When a member voluntarily seeks assistance as described above, he or she may be placed on a leave of absence, at the Department's discretion or as required by law, to allow for evaluation by a qualified medical professional or substance abuse professional (SAP) and/or inpatient or outpatient treatment. The member will not be permitted to work until such time as the SAP or other qualified medical professional verifies that the member is fit for duty.

##### **1012.8 SCREENING TESTS**

A supervisor may request an employee to submit to a screening test under the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing the employee's ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm in the performance of the employee's duties (excluding training or authorized euthanizing of an animal).
- (c) The employee discharges a firearm issued by the Department while off-duty, resulting in injury, death, or substantial property damage.
- (d) During the performance of the employee's duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury, death, or substantial damage to property.

###### **1012.8.1 SUPERVISOR RESPONSIBILITIES**

The supervisor shall prepare a written record documenting the specific facts that led to the decision to request the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

###### **1012.8.2 DISCIPLINE**

An employee may be subject to disciplinary action if the employee:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that the employee took the

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controlled substance as directed, pursuant to a current and lawful prescription issued in the employee's name.

#### **1012.9 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

#### **1012.10 CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

## Sick Leave

### 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) and the Oregon Family Leave Act, or leave related to protections because of domestic violence, harassment, sexual assault, bias crimes, 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 West Linn Police Department to provide eligible employees with a sick leave benefit.

### 1014.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences (ORS 653.616; OAR 839-007-0020).

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 (see the Outside Employment Policy).

#### 1014.3.1 NOTIFICATION

All members should notify the Shift Supervisor or appropriate supervisor as soon as they are aware that they will not be able to report to work and 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 and practicable, 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).

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:

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- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is 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 Resources 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 inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

#### **1014.5 EXTENDED ABSENCE**

Members absent from duty for more than three consecutive days may be required to furnish a statement from a 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).

When a verification from a health care provider is required, the Department shall pay reasonable costs, including lost wages, associated with obtaining the verification that are not paid under the member's health benefit plan (ORS 653.626).

#### **1014.6 REQUIRED NOTICES**

The Human Resources 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 provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

#### 1016.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the West Linn Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

### 1016.2 POLICY

The West Linn Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

### 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).

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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.

#### **1016.4 EXPOSURE PREVENTION AND MITIGATION**

##### 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.
- (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).

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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).

#### **1016.5 POST EXPOSURE**

##### 1016.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practicable.

##### 1016.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (29 CFR 1910.1030; OAR 437-002-0360):

- (a) Name of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

##### 1016.5.3 MEDICAL CONSULTATION, EVALUATION, AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (29 CFR 1910.1030; OAR 437-002-0360).

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

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- (a) Whether the member has been informed of the results of the evaluation.
- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

#### 1016.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (29 CFR 1910.1030; OAR 437-002-0360).

#### 1016.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate. Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Contacting the Oregon Health Authority to seek voluntary consent for source testing for HIV (ORS 433.065).
- (c) Petitioning for a court order to compel source testing for HIV or other communicable diseases as defined by ORS 431A.005, if a good faith effort to obtain voluntary consent is requested from the source person and not obtained (ORS 433.080; ORS 431A.570).
- (d) Working with the district attorney if the person is charged with a criminal offense that may involve exposure to a communicable disease (ORS 135.139).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

#### 1016.6 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member'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.

#### 1016.7 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (29 CFR 1910.1030; OAR 437-002-0360):



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- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

## Smoking Policy

### **1018.1 PURPOSE AND SCOPE**

This policy establishes limitations on the use of tobacco products by employees and others while on-duty or while in West Linn Police Department facilities or vehicles.

### **1018.2 POLICY**

Although the City does not base employment decisions on the fact that an applicant or employee may use tobacco products while off-duty, smoking and other use of tobacco products is not permitted when in public view while on-duty or in uniform.

### **1018.3 EMPLOYEE USE**

Employees who use tobacco products shall dispose of waste products appropriately, limiting exposure of such waste to other employees.

## **PERSONNEL COMPLAINTS**

### **1019.1 PURPOSE AND SCOPE**

This policy identifies the process for reporting and disposition of complaints regarding the conduct of employees and volunteers of this Department.

### **1019.2 PERSONNEL COMPLAINTS**

A Personnel Complaint is an allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy; rule; federal, state or local law.

### **1019.3 SOURCE OF COMPLAINTS**

(a) An employee who becomes aware of alleged misconduct shall immediately notify a supervisor, including when under the obligation of the Duty to Intervene as required by policy and law.

(b) Anonymous complaints and third-party complaints will be accepted for review and investigated to the extent that sufficient information is provided.

### **1019.4 FILING A COMPLAINT**

Complaints may be filed in various ways including in person, by phone or electronically. The City and Department will make available a public complaint process that provides for online submission, including and not limited to a third party hotline or other similar service; by telephone submission, and written submission. Access to making a complaint and information regarding how to file a complaint will be posted on the City website. Written complaint forms will be made available at City Hall and the Police Department.

As provided in Section 1020.3 above, employees who become aware of alleged misconduct from any source shall immediately notify a supervisor, including when under the obligation of the Duty to Intervene as required by policy and law. The supervisor will proceed with reporting the matter to Human Resources.

### **1019.5 RECEIPT OF A COMPLAINT**

Any complaint received will be directed to Human Resources, inclusive of the City Manager, for Human Resources to engage in an initial review process.

Any manager or employee who receives a complaint regarding improper conduct of an employee is directed to forward a written version of the complaint to the Human Resources Director and the City Manager. The Human Resources Director or City Manager, as applicable, will coordinate and conduct or delegate the responsibility for review of complaints.

When a personnel complaint form is completed in person, the complainant should legibly write a detailed narrative of their complaint. If circumstances indicate that this is not feasible, the receiving supervisor or City representative 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 shall not alone be grounds to refuse to accept a complaint. Preferably, the complainant's

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signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of their original complaint after submission to Human Resources.

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.

#### **1019.6 INITIAL REVIEW OF A COMPLAINT**

Human Resources, or designee, will initially review complaints for a preliminary determination on how to proceed with the complaint. At the discretion of the City, Human Resources will involve various representatives on behalf of the City to determine next steps of review. Such representatives will include City management and administrators, legal and risk representatives, agents of City participating in any oversight group or Ombudsman as determined by practice.

Complaints reviewed by the Human Resources initial review process will not be further advanced 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.

Personnel complaints will be initially evaluated into various categories:

**Complaint Inquiry:** A matter in which the complaining party is satisfied that, upon a preliminary explanation provided by the Human Resources initial review process, an appropriate response or an appropriate action, if any, has been taken. The involved employee, being the subject of the complaint, will be notified of the resolution. Complaints reviewed by the Human Resources initial review process resulting in the placement of the "Complaint Inquiry" category will be labeled and stored separately from other categories of complaints. Retention will be consistent with applicable law. The City may review informal complaint logs on a regular basis and reserves the right to reopen any complaint based on newly discovered information and review of the conduct.

**Formal** - A matter in which the Human Resources initial review process determines that further action is warranted because 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. Complaints reviewed by the Human Resources initial review process resulting in the placement of the "Formal" category will be labeled and stored separately from other categories of complaints. Retention will be consistent with applicable law.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. 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 the ability to maintain continued and timely communication with the agency to provide information as needed. Complaints reviewed by the Human Resources initial review process resulting in the placement of the "Incomplete" category will be labeled and stored separately from other categories of complaints. Retention will be consistent with applicable law.

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In the event the complainant is intoxicated to the point where their credibility appears to be unreliable, the initial HR review process may dispose of the complaint with written explanation. Such complaints shall be investigated by an appropriate City representative as assigned by the City.

If the initial review determines a formal complaint is present, the matter will be investigated as provided by policy and practice.

#### **1019.7 SUPERVISOR RESPONSIBILITY**

Notwithstanding procedurally reporting a complaint, a police department supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

For complaints brought to the attention of the police department, the initial responsibility for receiving a personnel complaint is with the member's immediate supervisor, or another supervisory employee if the immediate supervisor is not available. The supervisor shall be responsible for the following:

- (a) Ensure that a personnel complaint form has been completed as fully as possible.
- (b) Obtain names, addresses and telephone numbers of additional witnesses, if possible.
- (c) Photographs should be taken of any injuries alleged by the complainant, as well as accessible areas of non-injury, in addition to ensuring that immediate medical attention has been provided.
- (d) Ensure that a Captain is notified of the complaint as soon as practicable, or the Chief of Police if a Captain is not available.
- (e) If 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 a Captain, or the Chief of Police if a Captain is not available.
- (f) The supervisor will complete the written complaint and provide notice to Human Resources, as provided by practice.

#### **1019.8 INVESTIGATION OF FORMAL COMPLAINT**

If the initial review determines a formal complaint is present, the matter will be investigated as provided by policy and practice. See also Administrative Investigations, Corrective Actions and Discipline Policy.

#### **1019.9 DISPOSITION OF COMPLAINTS**

Each allegation 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. This disposition may also be used in limited circumstances with the approval of the Chief of Police where the conduct is within policy, however the policy needs to be revised to address the concern.

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**Not sustained with explanation** - When the investigation discloses that there is insufficient evidence to sustain the complaint.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

Upon final disposition of a formal complaint, the complainant and officer will be notified, of the resolution of the complaint.

#### **1019.10 ANNUAL REVIEW OF PERSONNEL COMPLAINTS**

During the 1<sup>st</sup> quarter of each calendar year, Human Resources, with the assistance of the Police Department, will provide to the City Manager an annual report of personnel complaints from the preceding year. The report will focus on complaint trends as well as training needs and necessary needed policy changes, including the case number, the nature of the complaint, and the disposition. A copy of the report will 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.

#### **1019.11 RECUSAL FROM REVIEW OF INVESTIGATION OR OVERSIGHT**

- (a) Personnel complaints may arise from many sources and involve various community members. In the event a personnel complaint involves a person directly involved with the procedural review, investigation, and potential disposition of a complaint, the employee or City representative (oversight person, ombudsman, etc) should consider the following:
- A recusal is appropriate when a conflict of interest exists between an employee's job duties and financial interests (including interests in future employment) or certain business or personal relationships or outside activities.
  - Recuse from a matter in order to avoid a conflict of interest or the appearance of a conflict of interest.
  - Be responsible for knowing when recusals are required, but they do not need to make this determination alone. Employees should seek the advice of an agency ethics official when considering whether recusal is appropriate.
  - Document the recusals in writing. Although recusals do not need to be in writing in order to be valid, as a general principle, a written recusal helps clarify the scope of the recusal both for the employee and those who need to be aware of the recusal. Once a person recognizes the need to recuse themselves from participating in a particular matter to which they may be involved, they should notify the person who assigned the matter. If the person is responsible for their own assignments, the person should take whatever steps are necessary to ensure that they do not participate in the matter.

2. Recusals are required in several specific situations:

- When a person's position would cause them to work on a matter that will have a direct and predictable effect on their own financial interests or the financial interests of an entity whose interests are imputed to the employee.

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- When an employee is working on a particular matter involving specific parties, a reasonable person with knowledge of the relevant facts would question the employee's impartiality, and either (1) the matter is likely to have a direct and predictable effect on the financial interests of the employee's household, or (2) the employee knows that a person with whom they have a "covered relationship" is or represents a party to the matter.
- When a person has an arrangement concerning prospective employment

# ADMINISTRATIVE INVESTIGATIONS, CORRECTIVE ACTIONS AND DISCIPLINE

## 1020.1 PURPOSE

Administrative investigations may arise from the need to review conduct of a department employee for allegations of misconduct, violation of rule or other performance related concerns. An administrative investigation may result in no action, evaluation, counseling or related remedial action, formal disciplinary action or other actions.

This policy describes the safeguards that apply when a member is under investigation concerning a matter that may lead to disciplinary sanctions or dismissal, and when the member will be interviewed regarding the matter. This policy is also meant to ensure that any disciplinary action taken against a member occurs with just cause, to the extent required by an applicable collective bargaining agreement or ORS 236.350 to 236.370.

This policy does not apply when a supervisor questions a member in the normal course of an informal oral admonishment or when the supervisor has other routine or unplanned contact with a member. Nor does this policy apply to an investigation concerned solely with alleged criminal activities.

This policy applies to all employees of the police department, but does not impose any contractual right or individual employment agreement, unless otherwise covered by a collective bargaining agreement or independent employment contract authorized by the City manager. Employees not represented by a collective bargaining agreement or independent employment contract are considered "at-will" and employment may be terminated with or without cause subject to applicable law. The City is not precluded from following the concepts of these policies at its discretion for "at-will" employees. This policy does not apply to volunteers. Volunteers serve at the pleasure of the City and may be excused from service at the sole discretion of the City.

For employees covered by a collective bargaining agreement (CBA), any procedural rights or due process rights within the respective CBA supersede this policy.

The City retains all rights to modify this policy subject to any other legal obligations. (ie: statutory requirements, PECBA, etc).

The City maintains the exclusive right to conduct administrative investigations using City personnel or outside investigators as agents for the City. The City maintains the right to impose disciplinary sanctions at its discretion, and acknowledges due process and grievance rights afforded by this policy or respective collective bargaining agreement.

This policy is intended for internal use only and will not be construed to increase or establish an employee's civil or criminal liability. Nor will it be construed to create or establish a higher standard of safety or care. A violation of any portion of this policy may only serve as the basis for internal administrative action.



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Counseling and Discipline: The administration of counseling or formal discipline are is generally expected to be progressive in nature, with relatively minor violations of rules resulting in counseling or similar for first offenders. Counseling is not considered formal disciplinary actions. Repetitive similar violations, or more serious violations, would generally result in progressively more serious forms of discipline being administered. Counseling is not required before imposing formal disciplinary actions dependent on the seriousness of the conduct and factual circumstances of each incident. For employees represented by a collective bargaining agreement, the terms of the agreement supersede this policy.

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.

#### **1020.2 DEFINITIONS**

**Counseling:** Counseling are a less formal measure to provide notice of violation of policy or wrongdoing as well as to provide remedial methods to assist employees. They can include documented counseling, work improvement plans, evaluations, and similar documents indicating corrective action. Counseling are generally placed in an employee's supervisory file and not placed in an employee's personnel file, and they may be maintained in City records for purposes of notice of rule or civil liability purposes consistent with retention laws.

**Disciplinary action** – A formal action imposed upon an employee by the West Linn Police Department to admonish and punish the employee, including written reprimand, temporary pay reductions or suspension without pay, demotion and dismissal or as defined by applicable law or collective bargaining agreement.

**Employee** - Any employee of the West Linn Police Department with a property interest in employment at the West Linn Police Department.

**Just Cause: For** employees covered by a collective bargaining agreement, the agreement applies, including that for sworn officers, the definition of just cause for all formal disciplinary actions imposed is subject to Oregon statute as provided by ORS 243.808, ORS 236.350(2) and as applicable. The just cause definition does not apply to "at-will" employees. For those employees covered by an individual employment agreement, the definition defers to the individual employment agreement, and if not otherwise defined, defers to ORS 235.350(2).

#### **1020.3 ASSIGNMENT TO 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; or may create an undue risk for the Department, the employee, other employees or the public; or may jeopardize the integrity of the investigation, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave.

#### **1020.4 ADMINISTRATIVE LEAVE**

A member placed on administrative leave may be subject to the following guidelines:

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- (a) The member may continue to receive regular pay and benefits, pending the imposition of any discipline, at the Department's discretion or as required by law or an applicable collective bargaining agreement.
- (b) A member 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. An employee is precluded from engaging in other forms of employment during assigned hours while on paid administrative leave.
- (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.

#### **1020.5 ALLEGATIONS OF CRIMINAL CONDUCT**

When an employee of this department is accused of potential criminal conduct, an outside agency may be assigned to investigate the criminal allegations apart from any administrative investigation. Administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police or a Captain may request a criminal investigation by an outside law enforcement agency.

#### **1020.6 ADMINISTRATIVE INVESTIGATIONS**

When a formal complaint leads to a formal internal investigation, the following applies:

- Investigation of a formal personnel complaint will be conducted by Human Resources consistent with the Personnel Complaints policy. Upon determination of next steps, the investigation will be assigned to an investigator by the Chief of Police or designee, in consultation with Human Resources. Internal investigations, if performed by a Department member, will be conducted by a supervisor of higher rank than the subject employee with review by Human Resources. (OIR recommendation)
- For formal complaints with allegations towards the Chief of Police, the City will use an independent third party investigator as directed by Human Resources and upon advise of legal representatives. (OIR recommendation)
- Internal investigations that parallel pending civil claims will be coordinated with appropriate legal representatives. (OIR recommendation)

#### **1020.7 ADMINISTRATIVE INVESTIGATION PROCEDURES**

- (a) Administrative investigations for employees covered by a collective bargaining agreement will follow any due process rights or other obligations covered in the respective agreement.

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- (b) Except as necessary to gain a general overview and sufficient facts of an incident to assess the necessity of an inquiry or in order to obtain pertinent public safety information, a public safety officer, as defined in ORS 236.350, shall not be required to answer questions until they have been told of the facts and the nature of the investigation in a manner that is reasonably sufficient to inform the officer of the circumstances surrounding the allegations. This requirement does not apply to preliminary questions directed at gaining a general overview of events in order to assess whether an inquiry is necessary and to effectively investigate and gather evidence. Pursuant to ORS 236.370, this section also does not apply to public safety officers who are supervisory employees or probationary employees.

The person assigned to investigate the allegations will abide by the investigation safeguards and procedures in an applicable collective bargaining agreement, or as required by ORS 236.350 to 236.370, and as provided below:

**Use of Deadly Force Situations.** Employees involved in the use of deadly force will be advised that they may consult with an Association representative or attorney prior to being required to give an oral or written statement about the use of force. Such right to consult with a representative or with counsel will not unduly delay the giving of the statement.

All interviews are subject to being recorded by either the City, employee or Association. Copies of recordings may be obtained by the other party.

#### **1020.8 GENERAL FORMAT FOR ADMINISTRATIVE INVESTIGATIONS**

Investigative findings of personnel complaints will be detailed, complete and essentially follow this format:

- Introduction - Include the identity of the employee(s), the identity of the assigned investigator(s), the scope of the investigation, and the initial date and source of the complaint.
- Introductory Summary - Provide a very brief introduction of the facts giving rise to the investigation.
- Summary of allegations - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation.
- Findings of Fact and Evidence as to each allegation - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section. In situations involving concerns of credibility of the person investigated witnesses, the investigator should articulate specific concerns and factors used make findings of fact. Findings of facts should be determined using the dispositions as provided by Policy 1020.9 (Exonerated, Not sustained with explanation, Sustained).
- Summary Conclusion - Provide a brief summary of the facts and allegations as determined by the investigator.
- Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

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##### **1020.9 NEW ALLEGATIONS ARISING FROM CURRENT INVESTIGATION**

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator will notify Human Resources and take appropriate action, as directed and consistent with policy, with regard to any additional allegations. A new notice of investigation and allegations may be necessary, to be given to the employee. In cases where an employee was given an admonishment of expectation of truthfulness, a new allegation of misconduct for untruthfulness does not require revised notice.

##### **1020.10 DETERMINATION AND IMPOSITION OF FORMAL DISCIPLINE**

- (a) Preliminary Determination of Potential Discipline. Upon receipt of any a completed investigation, the City Manager, Chief of Police, or designee will consider the level of disciplinary sanction and review the investigation findings and materials to develop a preliminary determination of potential discipline. The City is not precluded from involving consultants, members of an oversight review group, or other agents to assist in making recommendations on disciplinary actions. The City Manager, Chief of Police or designee may return an investigation to the assigned investigator for further investigation or action. Once satisfied that no further investigation or action is required by staff, the City Manager, Chief of Police or designee will determine the amount of discipline, if any, to be imposed, subject to any procedural requirements provided in this policy, bargaining agreement or applicable law.
- (b) Prior to Imposing discipline. The City, or designee, will ensure the following before any disciplinary action against an employee is taken:
  1. For those employees covered by a collective bargaining agreement, the terms of the agreement will be followed prior to imposition of discipline. In the event an economic discipline is considered, written notice of opportunity for pre-disciplinary meeting will be provided inclusive of:
    - (a) Specific charges set forth in separate counts, describing the conduct underlying each count.
    - (b) A recommendation of proposed discipline for each charge as applicable.
    - (c) The employee, and union (if applicable), has been provided with or given access to all of the materials considered by the City in recommending the proposed discipline, including the Internal investigation report and exhibits. The City and Association acknowledge that some materials may be subject to a restricted release agreement based on particular circumstances.
    - (d) For any pre-disciplinary meeting, union represented employees may have a Union representative present on their behalf. The City representative, or designee, having final authority to impose discipline will be present for any pre-disciplinary meeting, unless otherwise mutually agreed with the employee or applicable representative.
  2. For those employees covered by an individual employment agreement for an economic discipline or termination for cause:

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- (a) Notice of allegations: Notification is made to the employee in writing of the charges against the employee and the proposed disciplinary action.
    - (b) Pre-disciplinary meeting: The employee is given an opportunity to respond to the charges at an informal meeting, which may be recorded, that is attended by the person or persons having authority to impose the proposed disciplinary action as provided by applicable law.
  3. For those employees who are "at-will" the City is not required or precluded from providing notice of charges or opportunity to present a statement at or before the time of termination.
  4. For any employee, the City may also provide a "name-clearing" hearing if applicable.
- (c) Pre-Disciplinary meeting: The pre-discipline meeting, if offered by policy or otherwise required by law, is intended to provide the accused employee with an opportunity to present a written or oral response to the City after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The following is considered:
- This response is not intended to be an adversarial or formal hearing.
  - 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.
  - The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for City to consider.
  - In the event that the City elects to cause further investigation to be conducted, the employee will be provided with the results of such subsequent investigation prior to the imposition of any discipline.
  - The employee may thereafter have the opportunity to further respond orally or in writing to the City on the limited issue(s) of information raised in any subsequent materials.
  - Once the employee has completed their response or, if the employee has elected to waive any such response, the City, or designee, will consider all information received in regard to the recommended discipline. The City, or designee will 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 will also inform the employee of the reason(s) for termination and the process to receive any remaining accruals or benefits.
  - A pre-disciplinary meeting may be postponed upon a showing of good cause by the employee, or exclusive representative, as applicable.
  - Pre-disciplinary meetings will be audio recorded with a copy provide to the employee/exclusive representative upon request.

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- A pre-disciplinary meeting will be attended by the authority designated to impose disciplinary action.
- All formal disciplinary actions imposed upon an employee will be provided in writing to the employee. Electronic mailing or personal/mail delivery are both acceptable.

#### **1020.11 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES**

Probationary employees are "at-will" and can be terminated at the discretion of the City. In the event of termination, when notified, the employee will be granted the opportunity to make a statement. Probationary employees will be provided a written document of termination, inclusive of a statement describing the basis for termination. Probationary employees have no appeal or grievance process for termination during their probationary period.

#### **1020.12 CONFIDENTIALITY**

All investigations of personnel complaints shall be considered confidential. The contents of such files shall not be revealed to anyone other than the involved member or authorized Department personnel, delegated City representative (Ombudsman, oversight member) or as required by law (e.g. Oregon Public Records Law, lawful subpoena, etc.).

In the event that an accused member, or bargaining representative of the member, makes a false representation regarding an internal investigation, and such false representations are communicated to any media source, the Department may disclose sufficient information to refute such false representations.

Disciplinary action resulting from sustained complaints shall be maintained by the City's Human Resources Department. Complaints and any investigative reports shall be maintained by The City of West Linn Human Resources Department, apart from the member's personnel file.

#### **1020.13 DISPUTED DISCIPLINARY ACTIONS**

In the event an employee disputes a disciplinary action imposed, the following limited appeal process applies:

- For employees covered by a collective bargaining agreement, the appeal process defers to the grievance procedures of the respective CBA.
- For employees covered by an individual employment agreement, the appeal process defers to the agreement.
- For employees who are "at-will" there is no formal appeal process.

No other City policy applies for appeal for employees covered by this policy, and this policy supersedes other department policy dated prior to this policy.

Matters of counseling not defined as discipline, as noted above, are not subject to appeal, however, employees may provide a written rebuttal to be added to the remedial action within 15 days of imposition.

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##### **1020.14 COMPLETION OF INVESTIGATIONS**

Investigations will be completed in a prompt and timely manner, dependent on the circumstances of the investigatory process. The Department will make best efforts to ensure that investigations are completed and employees are provided notification of intended discipline within six months from the date of the first interview. The Department may extend the investigation beyond 6 months from the date of the first interview, provided that, before the extended period begins, the Department gives written notice explaining the reason for the extension to the employee and the employee's chosen representative and union representative. Generally, investigations should not take more than 12 months from date of interview to conclusion. Factors that substantiate a prolonged investigation past 12 months include, but are not limited to:

- (a) The investigation involved an employee who is incapacitated or unavailable.
- (b) The investigation involves an allegation of workers' compensation or disability fraud by the employee.
- (c) The employee or exclusive representative, in writing, waives the limit.
- (d) The investigation requires a reasonable extension of time for coordination with one or more other agency.
- (e) The investigation involves more than one employee and requires a reasonable extension of time.
- (f) The alleged misconduct is also the subject of a criminal investigation or criminal prosecution. Time does not run for the period during which the criminal investigation or criminal prosecution is pending.
- (g) The investigation involves a matter in civil litigation in which the employee is named defendant or the employee's actions are alleged to be a basis for liability. Time does not run for the period during which the civil action is pending.
- (h) The investigation is a result of a complaint by a person charged with a crime. Time does not run for the period of the criminal matter is pending.
- (i)
- (j)
- (k)
- (l)
- (m)
- (n)
- (o)
- (p)

##### **1020.15 RESIGNATION DURING PENDING INVESTIGATION**

If an employee tenders a resignation or notice of retirement prior to the imposition of discipline, it will be noted in the investigation and the notice will be placed in the employee's personnel file.

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A resignation or retirement during a pending investigation does not preclude conclusion of any pending investigation or disciplinary action.

#### **1020.16 ADMINISTRATIVE SEARCHES**

An employee of this department may be administratively ordered to submit to a blood, breath or urine test for alcohol and drugs as provided in the Drug and Alcohol Free Workplace policy or an applicable collective bargaining agreement.

The results of tests compelled by the Department shall be restricted to the administrative investigation.

A member may be compelled to disclose personal financial information pursuant to proper legal process, if such information tends to indicate a conflict of interest with official duties or if the member is assigned to, or being considered for, a special assignment with a potential for bribes.

Members shall have no expectation of privacy in or when using offices, desks, lockers, vehicles, telephones, computers, radios or other communications provided by the Department.

Assigned lockers, offices, desks, vehicles, storage spaces, or any departmental issued equipment are the property of the employer and may be administratively searched by a supervisor for work-related purposes (e.g. obtaining a needed report or radio).

All other non-assigned areas (shared desks, common office space, shared vehicles) may be administratively searched by a supervisor for non-investigative purposes.

An investigative search of such areas shall only be conducted with the approval of a Chief of Police or designee upon a reasonable suspicion that official misconduct is involved.



## Seat Belt Procedure

### 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 members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department, while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

#### 1022.2.1 TRANSPORTING CHILDREN

A properly installed, approved child restraint system should be used for all children of an age, height or weight for which such restraints are required by law (ORS 811.210).

Children under the age of 13 should be transported in the rear seat. In the event that the appropriate restraints are unavailable, officers should arrange for alternate 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.

### 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

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

### 1024.2 POLICY

It is the policy of the West Linn 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 Administrative Division Commander shall ensure that body armor is issued to all officers when the officer begins service at the West Linn Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administrative Division Commander 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 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.

# GUARDIAN TRACKING

## 1025.1 PURPOSE AND SCOPE

The Guardian Tracking software program is used by the West Linn Police Department as an electronic document retention system to replace and combine the employee working file and training file. The Guardian Tracking program will track and record entries into an employee's file under 7 categories: Recognition, General, Attendance, Administrative, Use of Force, Complaints, and Corrective Action. This policy does not apply to documents normally retained in an employee's personnel file, as maintained by Human Resources. The policy is subject to the conditions of the respective collective bargaining agreement as related to performance evaluations, counseling, discipline and document retention.

## 1025.2 GUARDIAN TRACKING ENTRIES

### 1025.2.1 POSITIVE CONDUCT ENTRIES

Any supervisor may enter a positive conduct comment into a subordinate employee's Guardian Tracking file. When an external positive citizen comment or commendation about a police department employee is received by the department, the comment will be directly forwarded to a supervisor for immediate entry into Guardian Tracking. For the purposes of this policy a supervisor is defined as any higher-ranking officer who is not within the collective bargaining unit.

If an employee below the supervisor level wishes to submit a positive comment into another employee's Guardian Tracking file, the employee may do so directly.

### 1025.2.2 NEGATIVE CONDUCT ENTRIES

No employee may directly enter a negative comment into another employee's Guardian Tracking file, unless the initial employee is a supervisor as defined above. For the purposes of this policy a negative comment has the same definition as "counseling" per Article 9 of the collective bargaining agreement. Only a Sergeant or above may enter a negative comment into an Officer's or Detective's Guardian Tracking file. Only a Captain or above may enter a negative comment into a Sergeant's Guardian Tracking file. Only the Chief of Police may enter a negative comment into a Captain's Guardian Tracking file.

Before a supervisor may enter a negative conduct comment into a subordinate employee's Guardian Tracking file, the supervisor shall have a verbal conversation with the employee regarding the negative conduct. The Guardian Tracking entry should describe the negative conduct, summarize the conversation that occurred between the employee and supervisor, document the employee was informed of the Guardian Tracking entry, and include clear expectations of conduct in the future. The employee shall have the opportunity to rebut the negative comment by providing a written rebuttal to the supervisor who shall digitally attach the rebuttal to the original entry as an update. For matters involving a bargaining unit employee, this policy will adhere to the terms of Article 9 as related to providing counseling.

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### 1025.2.3 TRAINING ENTRIES

All training performed by employees will be entered into Guardian Tracking. For all training conducted by the WLPD, the training coordinator will be responsible for making the entries. For any training conducted by an outside agency/vendor/provider the employee will be responsible for providing the documentation or certificate of completion to a supervisor who will then make the entry. Training entries can include attendance rosters, training request forms, certificates of completion, as well as other documents or forms related to the training.

### 1025.2.4 RECOGNITION AND WARNING FLAGS

All positive conduct Guardian Tracking categories, are programed with recognition flags. These flags will be automatically sent to all of the employee's supervisors when a specific number of entries into the same positive conduct category is reached in a specific timeframe. These recognition flags serve as an opportunity for the department to acknowledge and recognize superior work among department employees.

All negative conduct Guardian Tracking categories, plus the categories of Accident, Use of Force, and Work Related Injury, are programed with early intervention warnings. These warnings will be automatically sent to all of the employee's supervisors if a specific number of entries into the same negative or aforementioned conduct category is reached in a specific timeframe. These early intervention warnings are not disciplinary in nature, but merely serve as an opportunity for a employee to receive additional training, or guidance or some other intervention technique. For the purposes of this policy, the term "accident" shall mean any damage outside of normal wear and tear on a vehicle that is required to be fixed and has monetary consequences. Example: A flat tire due to the officer running over a nail is not an accident. A flat tire due to an officer striking a curb is an accident. Accidents determined to be not the fault of the police employee will not be entered into Guardian Tracking. Example: A vehicle hits a police vehicle while running a red light would not be entered into Guardian Tracking.

### 1025.3 EMPLOYEE REBUTTAL PROCEDURE

Any employee has the right to submit a written response or rebuttal to a negative conduct Guardian Tracking entry, consistent with the terms of the collective bargaining agreement for bargaining unit employees. If an employee wishes to do so, they shall submit their written rebuttal to a supervisor who will digitally attach it to the Guardian Tracking entry as an update.

### 1025.4 ENTRY RETENTION PERIODS AND PURGING

Guardian Tracking entry retention and purge parameters are individually set and managed based on the entry category, and will be set consistent with the applicable collective bargaining agreement for those employees within the bargaining unit.

All negative entries will be automatically purged after 365 days which allows the annual employee evaluation to occur with all required information. All supervisors shall ensure any negative entries included into an employee evaluation were not previously addressed in the prior year's employee evaluation.

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The categories of Annual Evaluation, Award Nomination, High Impact Event, Letter of Commendation, Off Duty Employment, External/Citizen Recognition, Internal Recognition, Training and Use of Force-Deadly Force currently have no automatic purge date. These category entries are currently set to remain in the Guardian Tracking system indefinitely.

Matters of formal discipline stored in this system will be removed subject to the timelines consistent with the respective collective bargaining agreement for represented employees.

In the event of a public records request, the City will adhere to the rules as provided by Oregon Public Records laws.

#### **1025.5 PROGRAM ACCESS**

Negative entries into an employee's Guardian Tracking file can be made by a supervisor in their work category (i.e. police, records, property and evidence). Positive entries into an employee's Guardian Tracking file can be made by all police department employees. Entries made into an employee's Guardian Tracking account are visible within the police department by the following personnel: The employee, all supervisors in their work category (i.e., police, records, property and evidence), Captains, The Chief of Police and the Executive Assistant to the Chief of Police.

##### **1025.5.1 PROCEDURE FOR ENTRY CORRECTION AND PROGRAM AUDITING**

Guardian Tracking entries in need of correction should be corrected or amended through an update to the original entry. Entries of any type that are identified as errors or premature entries can be deleted from the system. The Chief of Police will authorize the System Administrator (City IT Director) to remove erroneous entries by submitting a request to the IT Help Desk. All deleted entries by the System Administrator will be tracked by both the Guardian Tracking program and the IT Help Desk. Record of any deletion and the reason why the entry was deleted will appear as part of the semi-annual audit report by Informational Technology.

The Guardian Tracking program shall be audited twice yearly, in April and October, to ensure entries are being purged as per the established time limits. Any entries found to still exist within the program after the described purge time limits will be immediately deleted from the system. This audit will be performed by a Captain or another designee of the Chief of Police.

#### **1025.6 SHARING OF EMPLOYEE FILE INFORMATION**

An employee's Guardian Tracking file will not be shared with any person outside of the employee's direct line of supervision, unless the employee has signed a written permission notice allowing the department to share that information with another police agency, subject to applicable law.

#### **1025.7 USE OF GUARDIAN TRACKING MATERIALS FOR DISCIPLINE, TRANSFER, & PROMOTION**

The information contained in the electronic Guardian Tracking file is no different than the prior practice of using a paper supervisory file. Information contained in this tracking system is for the purpose of monitoring employee performance and can be used for non-disciplinary notice purposes, development of work performance plans and letters of expectation as well as to

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support discipline, transfer or promotion decisions, subject to the terms of the respective collective bargaining agreement for represented employees.

## 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 PERSONNEL FILE

The personnel file shall be maintained as a record of a person's employment/appointment with this department. The personnel 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 personnel 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.

### 1026.4 GUARDIAN TRACKING FILE

Guardian Tracking files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Guardian Tracking file may contain



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supervisor comments, notes, notices to correct, and other materials that are intended to serve as a foundation for the completion of timely performance evaluations. Any adverse comments shall be provided to the officer prior to being placed in the file in accordance with ORS 652.750.

#### **1026.5 TRAINING FILE**

An individual training file shall be maintained by the Training Coordinator for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; education; and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Training Coordinator or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Coordinator or supervisor shall ensure that copies of such training records are placed in the member's training file.

#### **1026.6 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the City Human Resources Department. Access to these files may only be approved by the Chief of Police or the Human Resources Director.

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 personnel file but will be maintained in the internal affairs file:

- Not sustained
- Unfounded
- Exonerated

#### **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.

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- (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)).

#### **1026.8 SECURITY**

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure as provided in this policy, according to applicable discovery procedures, state law or with the member's written consent.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

##### **1026.8.1 REQUESTS FOR DISCLOSURE**

Any member receiving a request for a personnel record shall promptly notify 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 member as soon as practicable that such a request has been made (ORS 181A.830).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

##### **1026.8.2 RELEASE OF PERSONNEL INFORMATION**

Personnel records of an officer who was employed at any time by the Department shall be released to a requesting law enforcement agency for the purposes of preemployment review (ORS 181A.667).

Except as provided by the Records Maintenance and Release Policy or pursuant to lawful process, no information about a personnel investigation of an officer that does not result in discipline contained in any personnel file shall be disclosed to any unauthorized member or other persons unless (ORS 181A.830(4)):

- (a) The officer consents to disclosure in writing.
- (b) The public interest requires disclosure of the information.

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- (c) Disclosure is necessary for an investigation by the public body, the Department of Public Safety Standards and Training, or a citizen review body designated by the public body.
- (d) Disclosure is required by ORS 181A.667.
- (e) The public body determines that nondisclosure of the information would adversely affect the confidence of the public in the Department.

Audio or video records of internal investigation interviews of an officer are confidential and shall not be released (ORS 192.385).

Photographs of an officer shall not be disclosed without the written consent of the officer (ORS 181A.830).

#### **1026.9 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

A member or former member may request to review his/her personnel file. The request should be made to the Human Resources Director. The Human Resources Director should ensure that the member is provided a reasonable opportunity to review their personnel file or, if requested, receive a certified copy of the records as provided in ORS 652.750.

If an officer believes that any portion of the material is mistakenly or unlawfully placed in the officer personnel record, the officer may submit a written request to the Chief of Police that the mistaken or unlawful material be corrected or deleted. The request must describe the corrections or deletions requested and the reasons supporting the request and provide any documentation that supports the request. The Chief of Police must respond within 30 days from the date the request is received. If the Chief of Police chooses not to make any changes, the Chief of Police shall ensure that a written response to the request is made. The Chief of Police shall ensure that the request and response is placed in the officer's personnel record (ORS 652.750).

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for department planning purposes.

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- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

#### **1026.10 RETENTION AND PURGING**

Unless otherwise noted, personnel records shall be retained for a minimum of 10 years after separation and in accordance with the established records retention schedule (ORS 181A.667).

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training, and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required 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 required period, approval for such retention should be obtained through the chain of command from the Chief of Police.
- (c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

## Commendations and Awards

### 1030.1 PURPOSE AND SCOPE

The awards program exists to recognize outstanding performance, extraordinary achievement, or a heroic act of a member of the Police Department or any citizen in the community. This procedure provides general guidelines for the commending of exceptional performance.

### 1030.2 POLICY

It is the policy of the West Linn Police Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

### 1030.3 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.
- Any act of or attempts to save the life of another.

#### 1030.3.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the Department should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
  1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
  2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

#### 1030.3.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:
  1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
  2. For individuals from the community - name, address, telephone number

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- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the person submitting the documentation.

#### 1030.3.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Division Captain for his/her review. The Division Captain should sign and forward the documentation to the Chief of Police for his/her review.

The Chief of Police or the authorized designee will present the commendation to the department member for his/her signature. The documentation will then be returned to the Administrative Services/Investigations Administrative Assistant for entry into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Administrative Services/Investigations Division Captain. The documentation will be signed by the Division Captain and forwarded to the Chief of Police for his/her review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

#### 1030.4 AWARDS

Awards may be bestowed upon members of the Department and individuals from the community. These awards include:

- Award of Honor.
- Purple Heart
- Lifesaving Award
- Meritorious Conduct
- Public Service Award
- Chief's Award

Criteria for each award and the selection, presentation and display of any award are determined by the Chief of Police.

#### 1030.4.1 AWARDS CRITERIA

- (a) **Award of Honor** - The Award of Honor may be awarded to a member acting in an official capacity who conspicuously distinguishes himself/herself by the performance of a heroic act which is above the normal demands of police service and where the member was fully aware of an imminent threat to his/her personal safety.

1. Some of the factors that should be considered during the award process are:

- (a) The situation was extremely hazardous;

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- (b) A strong possibility existed at the time the member acted that he/she could have suffered injury or death.
    - (c) The act was not foolhardy; and
    - (d) The member did not use poor judgment, thus creating the necessity for the act.
  2. Situations where the Award of Honor may be appropriate include criminal law violations, life-saving incidents, and incidents involving weapons. A member does not have to be injured in the incident to be considered for a Award of Honor.
  3. The Award of Honor shall be a medal that is gold in color. The recipient will also receive a gold ribbon with red, white, and blue striped borders with an attached letter of "H." This Service Ribbon will be affixed to the uniform shirt immediately above the name tag and centered with respect to the name tag to represent the medal. If the member wishes to wear the Award of Honor, it shall be worn on the dress uniform above the name tag and centered with respect to the name tag, and the Service Ribbon will not be worn.
  4. At the time the award is made, an official certificate will also be given. The certificate will contain a brief narrative of the incident and will be signed by the Chief of Police and the Mayor of the City.
- (b) **Purple Heart** - The Purple Heart may be awarded to a member who is injured in the line of duty. The injury sustained by the member should not have been caused by carelessness on the part of the member.
1. The Purple Heart shall be a medal that is silver in color. The recipient will also receive a purple ribbon. This Service Ribbon will be affixed to the uniform shirt immediately above the name tag and centered with respect to the name tag to represent the medal. If the member wishes to wear the Purple Heart, it shall be worn on the dress uniform above the name tag and centered with respect to the name tag, and the Service Ribbons will not be worn.
  2. At the time that the award is made, an official certificate will also be given. The certificate will contain a brief narrative of the incident and will be signed by the Chief of Police and the Mayor of the City.
- (c) **Meritorious Conduct**- The Meritorious Conduct Award may be awarded to a member who, through a single action, brings credit to himself/herself, the Department, and law enforcement. Awarded for some difficult task in which crime is prevented, life and property protected, or criminals apprehended. It can also be awarded for assistance in an auxiliary capacity due to technical knowledge, expertise and/or unusual effort put forth.
1. The Meritorious Conduct Award shall be a medal that is bronze in color. The recipient will also receive a green and red ribbon, with a green letter "M". This Service Ribbon will be affixed to the uniform shirt immediately above the name tag and centered with respect to the name tag to represent the medal. If the member wishes to wear the Meritorious Conduct Award Medal, it shall be worn

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on the dress uniform above the name tag and centered with respect to the name tag, and the Service Ribbon will not be worn.

2. At the time that the award is made, an official certificate will also be given. The certificate will contain a brief narrative of the incident and will be signed by the Chief of Police and the Mayor of the City.
- (d) **Life Saving Award** - The Life Saving Award will be awarded Issued to a law enforcement officer, or citizen who personally attempts to save a life. The lifesaving effort will normally involve, but is not limited to, any of the learned life-supporting processes: Mouth-to-mouth resuscitation, CPR, the Heimlich maneuver for choking victims, or other first aid techniques. The award is for the life saving effort, not necessarily the result. The Lifesaving Award may be awarded to individuals who perform an active and distinct attempt of lifesaving of another human being, and:
1. The recipient was aware of the seriousness of the situation.
  2. The act was purposefully done.
  3. Events leading to the act were not carelessly caused by the recipient, thereby necessitating the act.
  4. There must have been a strong possibility the person would have died if the action had not been taken.
  5. At the time that the award is made, an official certificate will also be given. The certificate will contain a brief narrative of the incident and will be signed by the Chief of Police and the Mayor of the City.
- (e) **Chief's Award** - The Chief's Award will be awarded at the sole discretion of the Chief of Police on those occasions he/she deems appropriate. This award will not be reviewed by the Awards Committee.
1. The Chief's Award shall be a medal that is bronze in color. The recipient will also receive a red, white, and blue ribbon with a red star. This Service Ribbon will be affixed to the uniform shirt immediately above the name tag and centered with respect to the name tag to represent the medal. If the member wishes to wear the Chief's Award, it shall be worn on the dress uniform above the name tag and centered with respect to the name tag, and the Service Ribbon will not be worn.
  2. At the time that the award is made, an official certificate will also be given. The certificate will contain a brief narrative of the incident and will be signed by the Chief of Police and the Mayor of the City.
- (f) **Public Service Award** - The Public Service Award may be given to a citizen who distinguishes himself/herself by highly commendable or unusual acts. Some of the factors that should be considered during the award process are that the citizen used proper judgment and discretion and did not precipitate the necessity for the act, the act was not foolhardy, or the citizen made a significant and lasting contribution to the law enforcement profession.
1. Only acts or incidents that significantly rise above the expected norm for community service will be considered for this award.



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2. The Public Service Award shall be in the form of an official document signed by a member of the Awards Committee and the Mayor of the City.
- (g) **Service Insignia** - It will be the responsibility of the shift supervisor to ensure that those members assigned to him/her have received those service insignia for which they are qualified. Once it has been verified that all qualifications have been met, the supervisor will request, in writing, that the appropriate service insignia be issued by the Captain or his/her designee.
1. **Longevity** - The longevity stripes will be awarded to those members who have completed five years D.P.S.S.T. recognized service in a law enforcement field. For each additional five years of service, the members will attach another longevity stripe. The longevity stripe will be silver in color.
    - (a) Longevity stripes shall be worn on the left shirt sleeve with the first stripe placed two inches above the cuff toward the elbow. The stripes will be aligned along the top of the forearm.

## 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

All supervisors should be alert to any indication that a member may be unable to safely perform the member's duties due to an underlying physical or psychological impairment or condition

Such indications may include:

- (a) An abrupt and negative change in the member's normal behavior.
- (b) A pattern of irrational conduct, hostility, or oppositional behavior.
- (c) Personal expressions of instability.
- (d) Inappropriate use of alcohol or other substances, including prescribed medication.
- (e) A pattern of questionable judgment, impulsive behavior, or the inability to manage emotions.
- (f) Any other factor or combination of factors causing a supervisor to believe the member may be suffering from an impairment or condition requiring intervention.

Supervisors shall maintain the confidentiality of any information consistent with this policy.

#### 1032.3.1 REPORTING

A supervisor observing a member, or receiving a report of a member, who is perceived to be unable to safely or effectively perform the member's duties shall promptly document all objective information and/or observations.

The supervisor should attempt to meet with the member to inquire about the conduct or behavior giving rise to the concerns.

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If a meeting does not resolve the supervisor's concerns or does not take place, the supervisor shall promptly document the supervisor's observations and actions in a written report and inform the Shift Supervisor or the member's Division Captain.

#### **1032.3.2 DUTY STATUS**

In conjunction with the Shift Supervisor or the member's Division 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.

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 Shift Supervisor or the member's Division 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 POLICY**

The West Linn 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.

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#### **1032.7 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.

##### 1032.7.1 PROCESS

The Chief of Police, in cooperation with the Human Resources Department, 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 Human Resources Department.

## 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 patrol officers shall notify LOCOM prior to taking a meal period. Uniformed officers shall take their breaks within close proximity to City limits unless on assignment outside of the City or approved by a supervisor.

The time spent for the meal periods shall not exceed the authorized time allowed.

#### 1034.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break 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.

Uniformed officers while on breaks are subject to call and shall monitor their radios. When field officers take their breaks away from their vehicles, they shall do so only after notifying LOCOM.

## 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 West Linn 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 Human Resources as established by the City payroll procedures.

### **1036.5 RECORDS**

The Assistant to the Chief shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

## 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 (CBA), 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.

Non-exempt employees are not 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.

### 1038.2 REQUEST FOR OVERTIME PAYMENT FORMS

Employees shall submit all overtime payment request forms for verification by their immediate supervisor and Division Commander as soon as practical. Overtime forms are then submitted to the Records Unit Supervisor. Failure to submit a request for overtime payment in a timely manner may result in a denial of compensation for that pay period.

#### 1038.2.1 EMPLOYEES RESPONSIBILITY

Employees shall complete the requests immediately, when practical, after working the overtime and turn them in to their immediate supervisor.

#### 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 Daily Time Report, the overtime payment request form is forwarded through the employee's immediate supervisor to the appropriate Division Commander for final approval.

#### 1038.2.3 DIVISION COMMANDERS RESPONSIBILITY

Division Commanders, after approving payment, will then forward the form to the Records Supervisor.

## 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.

### 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 must complete a memorandum which shall be submitted to the employee's immediate supervisor. The memorandum shall describe the nature of the outside employment and expected time frame. The memorandum will then be forwarded through channels to the Chief of Police for consideration. Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application 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.

If the employee's appeal is denied, the employee may file a grievance if applicable, pursuant to the procedure set forth in the current Collective Bargaining Agreement (CBA) or City's Personnel Policy's.

#### 1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment 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(s). That revocation will stand until the employee's



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performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment .

- (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 an employee's conduct or outside employment conflicts with the provisions of department policy, the outside employment 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 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 request 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

##### **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. No officer may engage in outside employment as a law enforcement officer for any other public agency without prior written authorization of the Chief of Police.

#### **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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##### 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**

Employees shall 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 regarding their work, a notice of revocation of the member's request for outside employment will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment 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 West Linn Police Department, a request (in writing) may be made to the Chief of Police to restore the request for outside employment by the employee.

# Occupational Disease and Work-Related Injury Reporting

## 1042.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, mental health issues and work-related injuries.

### 1042.1.1 DEFINITIONS

Definitions related to this policy include:

**Occupational disease or work-related injury** - An accidental injury or any disease or infection arising out of and in the course of employment that requires medical services or results in disability or death. The occupational disease (including a mental disorder) must be caused by substances or activities to which the member would not ordinarily be subjected or exposed except during employment with the West Linn Police Department (ORS 656.005(7); ORS 656.802).

## 1042.2 POLICY

The West Linn Police Department will address occupational diseases, mental health issues and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (ORS 656.001 et seq.).

## 1042.3 RESPONSIBILITIES

### 1042.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate. The member may choose a medical service provider, attending physician or authorized nurse practitioner for medical care (OAR 436-060-0010).

### 1042.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate. The supervisor shall provide every injured member with a Report of Job Injury or Illness form (Form 801) immediately upon the request of the member or his/her attorney, or upon receiving notice or knowledge of an accident that may involve a compensable injury (ORS 656.265; OAR 436-060-0010).

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

### 1042.3.3 DIVISION CAPTAIN RESPONSIBILITIES

The Division Captain who receives a report of an occupational disease or work-related 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, the City's risk management entity and the Administrative Services/Investigations Division Captain to ensure any required Oregon

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Occupational Safety and Health Administration (OR-OSHA) reporting is made as required in the injury and illness prevention plan identified in the Illness and Injury Prevention Policy.

Claims shall be reported to the department's insurer no later than five days after notice or knowledge of any claim or accident that may result in a compensable injury (OAR 436-060-0010).

#### 1042.3.4 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police shall review and forward copies of the report to the Human Resources Department. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

#### 1042.4 OTHER DISEASE OR INJURY

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Division Captain through the chain of command and a copy sent to the Administrative Services/Investigations Division Captain.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

#### 1042.5 SETTLEMENT OFFERS

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

#### 1042.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation is 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.

#### 1044.2.2 MUSTACHES

A short and neatly trimmed mustache may be worn. Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip.

#### 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

Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or his or her designee.

#### 1044.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

#### 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.

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- (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**

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.

#### **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.

#### **1044.5 EXEMPTIONS**

Members who seek cultural (e.g., protected hairstyle) or other exemptions to this policy that are protected by law should generally be accommodated (ORS 659A.001; ORS 659A.030). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

## Uniform Regulations

### 1046.1 PURPOSE AND SCOPE

The uniform policy of the West Linn 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 - Personal Appearance Standards

The Uniform and Equipment Specifications is set by, and periodically updated by the Chief of Police or his/her designee.

The West Linn Police Department will provide uniforms for all employees required to wear them.

### 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) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.
- (e) 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.
- (f) 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.
- (g) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.
- (h) Mirrored sunglasses will not be worn with any Department uniform
- (i) 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.

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- (a) 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 Division 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 black shoes

Boots with pointed toes are not permitted.

##### 1046.3.2 REGULAR DUTY UNIFORM

All officers will possess and maintain a serviceable regular duty uniform at all times.

The regular duty 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 black crew neck t-shirt, or black mock turtle neck shirt must be worn with the uniform
- (c) All shirt buttons must remain buttoned except for the last button at the neck
- (d) Shoes for the regular duty 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



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##### 1046.3.3 SPECIAL DUTY UNIFORM

A special duty 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 of any special duty uniform and the specifications for such 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 last name. 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) Assignment Insignias - Assignment insignias, (SWAT, FTO, etc.) may be worn as designated by the Chief of Police.
- (e) Badge - The department issued badge, or an authorized sewn on cloth replica, must be worn and visible at all times while in uniform.
- (f) 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.

##### 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:

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- (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. Jeans may be worn in conjunction with other proper attire as long as they are free from holes, stains, and are not excessively faded
- (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 (records workers exempt from this sub-section)
  - 3. Swimsuit, tube tops, or halter-tops
  - 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 West Linn Police Department or the morale of the employees.

#### **1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS**

Unless specifically authorized by the Chief of Police, West Linn Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a

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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 West Linn 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 (see the Department-Owned and Personal Property Policy).

#### **1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

West Linn 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.

## 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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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 uninformed, 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 uninformed, immediate supervisor. In the event that no uninformed supervisor is immediately available, the employee shall promptly notify dispatch to have another uninformed 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 West Linn 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 Policy Manual § 320.11.

**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 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 (Oregon Revised Statutes 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 Oregon Revised Statutes 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 Policy Manual §1010 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 On-Duty Patrol Supervisor whom will document any actions taken and notify the appropriate Division Commander.

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 West Linn 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 (Policy Manual § 320).

- (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 West Linn Police Department which occurs in another jurisdiction to assist the responding agency and to take custody of any department weapon(s) 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 West Linn 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.

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- (e) Employees who are arrested shall be placed on administrative leave pending the disposition of criminal and administrative investigations.

#### 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:



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1. Stalking and inappropriate surveillance activities.
  2. Unusually high incidences of physical altercations, injuries, or verbal disputes.
  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 West Linn Police Department badge and uniform patch as well as the likeness of these items and the name of the West Linn 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 West Linn 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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##### **1054.2.3 RETIREE UNIFORM BADGE**

Upon honorable retirement employees may purchase 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.

##### **1054.2.4 RESIGNING OFFICER UNIFORM BADGE**

A resigning officer, currently in good standing, may purchase his/her assigned duty badge for display purposes with the written approval of the Chief of Police. 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.

##### **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 West Linn 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 Division 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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The Division 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 Shift Supervisor or Division 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 Division 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 and shall complete and process a change of shift/assignment memorandum.

- (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 Division Commander 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 Division Commander with an update of the employee's current status and anticipated date of return to regular duty. Extensions require approval of the Division Commander.
- (d) When it is determined that an employee on modified duty will return to regular duty, the supervisor shall notify the Division Commander and complete and process a change of shift/assignment memorandum. All training and certification necessary for return to duty shall be reviewed and updated as necessary.

##### 1056.4.3 MEDICAL EXAMINATIONS

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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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.

#### **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 Division 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 MEDIA/NETWORKING

## 1059.1 PURPOSE AND SCOPE

Consistent with HB 2936, this policy is intended to address issues associated with employee speech and expression in and outside the course and scope of employment, including the use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen regarding a matter of public concern, unless the interest of the City in promoting the efficiency of the public services it performs through its employees outweighs the interests of the employee, as a citizen, in commenting upon matters of a public concern (see Section 1060.2 and 1060.4 below). Also, this policy is not intended to restrict an employee from participating in the lawful activities of a labor organization under ORS 243.622.

Employees are encouraged to consult with their Captain or Chief of Police regarding any questions arising from the application or potential application of this policy.

### 1059.1.1 APPLICABILITY

This policy applies to all forms of communication made by an employee, whether on or off duty, including, but not limited to, film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, electronic mail (email), file transfer, remote computer access, news services, social networking, social media, text messaging, blogs, forums, video and other file-sharing sites.

## 1059.2 POLICY

Law enforcement employees hold a unique position in our community and must demonstrate principles of equity, transparency, honesty and trust with all members of society. Therefore, 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 West Linn Police Department will carefully balance the individual employee's rights against the Departments needs and interests when exercising a reasonable degree of control over its employee's speech and expression.

## 1059.3 SAFETY

Employees should consider carefully the implications of their speech including any form of expression when using the Internet. Speech and expression that may negatively affect the safety

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of the West Linn 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 of any employee, an employee's family or associates.

Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.
- Posting discriminatory or inflammatory comments that would be reasonably expected to make the employee or other members of the Department the target of retaliation.

#### **1059.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the departments safety, performance and public-trust needs, the following speech or expression, including social media/networking activity, on or off-duty, is prohibited, irrespective of the employee's subjective intent:

- (a) Speech or expression that the employee knew or reasonably should have known would be reasonably expected to compromise or damage the mission, function, reputation or professionalism of the West Linn Police Department or its employees.
- (a) Speech or expression that the employee knew or reasonably should have known would be reasonably expected to negatively impact the credibility of the employee as a witness, or the public trust in the employee or the Department. For example, posting statements or expressions to a website that glorify or endorse dishonesty, violence, bias, unlawful discrimination or illegal behavior.
- (a) Speech or expression that the employee knew or reasonably should have known would be reasonably expected to negatively impact the safety of other employees of the Department. (See examples under Section 1060.3 above).
- (a) Speech or expression that the employee knew or reasonably should have known is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the West Linn Police Department.
- (a) Posting or showing approval of internet or social media content that would reasonably be viewed as participating in a racist organization or displaying messages or symbols of racism or racial supremacy.
- (a) 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 West Linn Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

During authorized breaks; 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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Consistent with ORS 181A.681 employees have a duty to intervene and report discrimination against a person based on race, color, religion, sex, sexual orientation, gender identity, national origin, disability or age.

Upon discovery, employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any personal web page, social media/networking account or website maintained or used by the employee.

##### 1059.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

Employees may not represent the West Linn Police Department or identify themselves in any way that could be reasonably perceived as representing the West Linn Police Department in order to do any of the following, unless specifically authorized by the Chief of Police:

- (a) Endorse, support, oppose or criticize any political campaign or initiative.
- (b) Endorse, support, oppose or criticize 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 an outside 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 West Linn Police Department.

A notice of restrictions on political activities by employees while on work time 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 and, except as otherwise prohibited by this policy, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, 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 e-mails, texts or anything published or maintained through file-sharing software or any Internet site or social media/networking account (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system.

The Department reserves the right to access, audit and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received or reviewed

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#### *EMPLOYEE SPEECH, EXPRESSION AND SOCIAL MEDIA/NETWORKING*

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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.

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 a user name or password will not create an expectation of privacy if it is accessed through department computers or networks.

#### **1059.6 TRAINING**

Subject to available resources, the Department should provide training regarding employee speech and the prohibited use of social media/networking and internet activities to all members of the Department.

## PEER SUPPORT

### 1060.1 PURPOSE AND SCOPE

The West Linn 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. Peer Support is intended to effectively provide routine support, crisis intervention, respond to critical incidents or, when necessary, referrals to the appropriate counseling or other assistance programs. These interventions are designed to improve life and health outcomes, mitigating stress responses and maladaptive coping strategies. Participation in the Peer Support Program is voluntary, and all conversations are confidential except as designated by ORS 181A.835.

### 1060.2 DEFINITIONS

**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 chaplain(s), local clergy, Responder Life and mental health professionals, etc.

**Peer Support** - Peer Support is a confidential meeting between a trained Peer Team member and a department member who asks for, or is referred to the team for one-on-one intervention.

**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 or self, child or 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 employee's ability to function properly 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 marital, relationship, health, family, financial, employment, cumulative effect, or other personal problems.

**Defusing** - A confidential (ORS 181A.835), group meeting held within eight (8) hours after the critical incident for the purpose of '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. Defusing's are conducted

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by trained peers, a trained chaplain, or a mental health professional trained in Critical Incident Stress Management. Attendance is mandatory but participation is voluntary.

**Demobilization or Rest, Information and Transition (RITS)** - Only used after a large-scale incident, and lasting no longer than 30 minutes. Emergency personnel need to rest, have something to eat and meet with Peer 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 or the 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. A debriefing is primarily educational in that its goal is to provide information regarding critical incident stress and potential stress related symptoms, as well as methods to manage these 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.

#### **1060.3 PROGRAM DESIGN**

This program is designed to:

- \* Provide emotional support during and after times of personal or professional crisis to employees who express a need for assistance.
- \* Promote trust, allow appropriate anonymity, and preserve confidentiality for persons using Team members within the guidelines of the program.
- \* Develop Team members who can identify personal crises or conflicts and provide guidance or referral to professional or alternate resources when required.
- \* Maintain an effective peer support training and response program.
- \* Support employees who have experienced personal tragedies.
- \* Check on the status of employees who are experiencing serious illnesses or injuries and provide support where desired or needed.
- \* 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. This training is provided by Responder Life.

##### **1060.3.1 DUTIES AND RESPONSIBILITIES OF TEAM MEMBERS**

- \* Complete Responder Life Peer Support Training.
- \* If selected for the Critical Incident Stress Management (CISM) team, complete CISM Group

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and Individual Crisis Response Training.

\* To sign and abide by "Confidentiality Agreement" upon selection to the team and each year thereafter. See Appendix A for Confidentiality Agreement (included in the handbook).

\* If on the CISM team, be available to respond to critical incidents and participate in Rest, Information, and Transition (RITS), Crisis Management Debriefing (CMB), Defusing, or Critical Stress Debriefing (CISD) as needed.

\* Intervene on any expressed suicidal or homicidal ideation according to the handbook and training guidelines.

\* Agree to be contacted and, if practical, respond at any hour.

\* Make necessary reports of any disclosed criminal conduct, per agency policy (Law Enforcement).

\* Make necessary reports of any disclosed child or elder abuse, per agency policy.

\* Complete and return monthly peer support contact forms See Appendix C for this form.

\* Participate in an annual review.

#### 1060.3.2 PROGRAM MANAGEMENT

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

#### 1060.3.3 SUPERVISOR DUTIES

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

\* Supervising the program on a daily basis.

\* Managing recruitment and screening of program applicants with support from the Responder Life Peer Support Liaison.

\* Coordinating training of team members with support from the Responder Life Peer Support Liaison.

\* Developing resources to assist individuals when problem areas are identified with support from the Responder Life Peer Support Liaison.

\* Offering guidance to Team members when necessary.

\* Coordinating follow-up response of team members when referrals are made to outside resources.

\* To review policy changes and submit changes to the Peer Support Advisory Board for review.

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\* With support from the Responder Life Peer Support Liaison, insure that all employees are aware of the program through briefings, written collateral, or other literature about the program.

\* With support from the Responder Life Peer Support Liaison, respond to all critical incidents to insure Peer Support Team Members are deployed as needed.

\* 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.

\* 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.

#### 1060.3.4 MEMBERSHIP

Membership to the Team will be an assignment made by the Chief of Police, or his designee, and the Peer Team Coordinator.

\* The Team will be made up of employees of the West Linn Police Department and a Chaplain will serve as a part of the Peer Support Program and the Peer Support Advisory Board.

\* In addition, administrative staff may be attached to the team to assist the Peer Team Coordinator in administering the program.

\* When a vacancy occurs on the team, the Peer Support Advisory Board will review and select a new Team member. In addition, Peer Team members will be reviewed on an annual basis. The size of the peer team will also be evaluated and Team members will be onboarded or removed as needed.

\* A Mental Health professional trained in Critical Incident Stress Management, will be retained for the West Linn Police Department's behalf by Responder Life.

#### 1060.3.5 TEAM TRAINING

It is the responsibility of the Peer Team Coordinator to insure that all team members receive competent and up to date training.

\* Quarterly trainings will be held providing ongoing training on Peer Support related topics.

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

\* Team members must attend a minimum of two trainings per year.

\* Any Team member not meeting the minimum standard for Peer Team training will be placed on inactive status until required training has been completed.

#### 1060.3.6 CONFIDENTIALITY

The acceptance and overall success of the Peer Support 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 a 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 threat of suicide or homicide by a participant in a Peer Support counseling session.

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

\* Any admission of criminal conduct.

It is critical that all Team members become well versed in all aspects of ORS 181A.835. Peer Support 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 Peer Team Coordinator or their designee who will advise on the appropriate action to be taken.

#### **1060.4 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 Peer Team Coordinator.

#### **1060.5 CRITICAL INCIDENTS**

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

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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:

- \* Death of a co-worker.
- \* Mass casualty events.
- \* Death or major injury to a child.
- \* Death after prolonged rescue attempts.
- \* Victim reminding one of another.
- \* Any highly dangerous events.
- \* Police personnel causing death or injury to another.

#### 1060.5.1 RESPONSES TO A CRITICAL INCIDENT

**Defusing** - A confidential (ORS 181A.835), group meeting held within eight (8) hours after the critical incident for the purpose of '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. 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.

**Demobilization or Rest, Information and Transition (RITS)** - Only used after a large-scale incident, and lasting no longer than 30 minutes. Emergency personnel need to rest, have something to eat and meet with Peer 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 or the 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. A debriefing is primarily educational in that its goal is to provide information regarding critical incident stress and potential stress related symptoms, as well as methods to manage these 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 the policies or procedures of the West Linn Police Department.

Uninvolved Peer Support Team Members, working with an involved peer, should attend to support their peer and assist in looking for signs of acute stress among the other attendees.



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If a Peer Support Team Member is involved in the incident, they should attend but 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.

Management and other personnel, not directly involved with the incident, will not be involved in the Debrief activities. However, if Command/Management personnel were directly involved in, or witnessed the incident they will be permitted to attend the Debrief. Any questions regarding attendance will be answered by the Chief. 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. In order to keep debriefings emotionally safe the participants must be allowed to choose if the people they report to will participate. If command staff were directly involved in the critical incident they would be invited to participate unless there were strong feelings by the participants.

#### **1060.5.2 GUIDELINES FOR CRITICAL INCIDENT DEBRIEFINGS**

- \* Strive to be held within 48 to 72 hours after an incident.
- \* What is shared in the Debriefing is privileged and shall be confidential.
- \* 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.
- \* A Debriefing is not a tactical review of the incident. Tactical critiquing should be discouraged during the Critical Incident Debriefing.
- \* 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.
- \* It is important to remember involved personnel includes more than just those on the scene. Dispatchers and other non-sworn staff members may be involved and impacted.

#### **1060.6 ACTIVATION OF PEER SUPPORT TEAM PROCEDURE**

- \* The Peer Support Team should be called out when the supervisor on scene requests them to be deployed.
- \* The initiating employee shall contact the Peer Support Coordinator providing

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as much information as is available and necessary to make a determination on activation. If the Peer Support Coordinator is unavailable, contact the Responder Life Peer Support Liaison.

\* 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 Peer Support Team shall be put in touch with the Peer Support Coordinator or the Responder Life Peer Support Liaison. After consulting with the requesting agency, the Peer Support Coordinator shall either grant or deny the request.

## Wellness Program

### 1061.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for department members (ORS 181A.832).

Additional information on member wellness is provided in the:

- Peer Support Policy
- Drug- and Alcohol-Free Workplace Policy.

#### 1061.1.1 DEFINITIONS

Definitions related to this policy include:

**Peer support** – Mental and emotional wellness support provided by peers trained to help members cope with critical incidents and certain personal or professional problems.

### 1061.2 POLICY

It is the policy of the West Linn Police Department to prioritize member wellness to foster fitness for duty and support a healthy quality of life for department members. The Department will maintain a wellness program that supports its members with proactive wellness resources, critical incident response, and follow-up support.

### 1061.3 WELLNESS COORDINATOR

The Chief of Police should appoint a trained wellness coordinator. The coordinator should report directly to the Chief of Police or the authorized designee and should collaborate with advisers (e.g., Human Resources Department, legal counsel, licensed psychotherapist, qualified health professionals), as appropriate, to fulfill the responsibilities of the position, including but not limited to:

- (a) Identifying wellness support providers (e.g., licensed psychotherapists, external peer support providers, physical therapists, dietitians, physical fitness trainers holding accredited certifications).
  1. As appropriate, selected providers should be trained and experienced in providing mental wellness support and counseling to public safety personnel.
  2. When practicable, the Department should not use the same licensed psychotherapist for both member wellness support and fitness for duty evaluations.
- (b) Developing management and operational procedures for department peer support members, such as:
  1. Peer support member selection and retention.
  2. Training and applicable certification requirements.
  3. Deployment.

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#### *Wellness Program*

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4. Managing potential conflicts between peer support members and those seeking service.
  5. Monitoring and mitigating peer support member emotional fatigue (i.e., compassion fatigue) associated with providing peer support.
  6. Using qualified peer support personnel from other public safety agencies or outside organizations for department peer support, as appropriate.
- (c) Verifying members have reasonable access to peer support or licensed psychotherapist support.
- (d) Establishing procedures for CISDs, including:
1. Defining the types of incidents that may initiate debriefings.
  2. Steps for organizing debriefings.
- (e) Facilitating the delivery of wellness information, training, and support through various methods appropriate for the situation (e.g., phone hotlines, electronic applications).
- (f) Verifying a confidential, appropriate, and timely Employee Assistance Program (EAP) is available for members. This also includes:
1. Obtaining a written description of the program services.
  2. Providing for the methods to obtain program services.
  3. Providing referrals to the EAP for appropriate diagnosis, treatment, and follow-up resources.
  4. Obtaining written procedures and guidelines for referrals to, or mandatory participation in, the program.
  5. Obtaining training for supervisors in their role and responsibilities, and identification of member behaviors that would indicate the existence of member concerns, problems, or issues that could impact member job performance.
- (g) Assisting members who have become disabled with application for federal government benefits such as those offered through the Public Safety Officers' Benefits Program (34 USC § 10281 et seq.).
1. The coordinator should work with appropriate Department liaisons to assist qualified members and survivors with benefits, wellness support, and counseling services, as applicable, when there has been a member death (see the Line-of-Duty Deaths Policy for additional guidance).

#### **1061.4 PHYSICAL WELLNESS PROGRAM**

The coordinator is responsible for establishing guidelines for an on-duty physical wellness program, including to following:

- (a) Voluntary participation by members
- (b) Allowable physical fitness activities
- (c) Permitted times and locations for physical fitness activities

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- (d) Acceptable use of department-provided physical fitness facilities and equipment
- (e) Individual health screening and fitness assessment
- (f) Individual education (e.g., nutrition, sleep habits, proper exercise, injury prevention) and goal-setting
- (g) Standards for physical fitness incentive programs. The coordinator should collaborate with the appropriate entities (e.g., human resources, legal counsel) to verify that any standards are nondiscriminatory.
- (h) Maintenance of physical wellness logs (e.g., attendance, goals, standards, progress)
- (i) Ongoing support and evaluation

#### **1061.5 WELLNESS PROGRAM AUDIT**

At least annually, the coordinator or the authorized designee should audit the effectiveness of the department's wellness program and prepare a report summarizing the findings. The report shall not contain the names of members participating in the wellness program, and should include the following information:

- Data on the types of support services provided
- Wait times for support services
- Participant feedback, if available
- Program improvement recommendations
- Policy revision recommendations

The coordinator should present the completed audit to the Chief of Police for review and consideration of updates to improve program effectiveness.

#### **1061.6 TRAINING**

The coordinator or the authorized designee should collaborate with the Training Coordinator to provide all members with regular education and training on topics related to member physical and mental health and wellness, including but not limited to:

- The availability and range of department wellness support systems.
- Suicide prevention.
- Recognizing and managing mental distress, emotional fatigue, post-traumatic stress, and other possible reactions to trauma.
- Alcohol and substance disorder awareness.
- Countering sleep deprivation and physical fatigue.
- Anger management.
- Marriage and family wellness.
- Benefits of physical exercise and proper nutrition.

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- Effective time and personal financial management skills.

Training materials, curriculum, and attendance records should be forwarded to the Training Coordinator as appropriate for inclusion in training records.

## Attachments

**PMIPA2.jpg**



**PMIPA4.jpg**

**PMIPA1.jpg**

**PMIPA3.jpg**

**PMIPA5.jpg**

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